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# The Implications of Intelligence Practice Within and Beyond the State: An Analytical Model<sup>1</sup>

PETER GILL\*

*University of Liverpool, UK*

**Abstract:** The study of the democratisation of intelligence in former authoritarian regimes and, more broadly, the relationship between intelligence and democracy, has hitherto concentrated on state intelligence services. The article challenges the utility of this state-centric model and considers the significance of corporate and para-state sectors of intelligence including their multiple interactions with states. ‘Securitism’ is developed as a model of these interactions which can be used in the analysis of contemporary intelligence governance and the profound challenges posed to the possibility of democratic control and oversight.

**Keywords:** intelligence, democracy, states, corporations, para-states.

## Introduction

Seeking security is central to the function and legitimacy of states and so it is little surprise that state intelligence agencies have been almost the sole focus of Intelligence Studies to date. While this work has clarified the conditions under which intelligence may move from a repressive to a democratic political instrument, we must acknowledge the significance of two other intelligence sectors: corporate and other non-state actors.

This article is drawn from a broader comparative study of several countries in South East Europe and Latin America which seeks to synthesise the largely empirical tradition of Intelligence Studies with the more theoretical democratisation literature in order to provide an analytical framework of use to both researchers and SSR practitioners. Specifically, it challenges the utility of the dominant state-centric model of intelligence democratisation.

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\* [Pgill1@liverpool.ac.uk](mailto:Pgill1@liverpool.ac.uk)

### Three Intelligence Sectors

The study of war and the role of military intelligence have concentrated, until recently, on inter-state violence and the relevant archives are themselves maintained and then (partially) released by states. Students of internal security intelligence have been concerned with the impact of political police on the rights and liberties of citizens and the study of criminal intelligence has focused similarly on the activities of public police forces. The discussion of democratisation to date has naturally followed these paths in emphasising the legal and institutional aspects of state intelligence. Yet there are two other intelligence sectors which affect the possibilities of a 'democratic' intelligence: corporate and para-state.

Intelligence in the corporate sector takes two main forms. There is a long history of 'market research', 'competitive' or 'business' intelligence in which firms gather information in relation to potential markets, activities of competitors and so on.<sup>2</sup> Most of this is concerned with nothing more than the profitability of the firm's own products or services and may involve industrial espionage but is normally gathered from open sources and, as such, is different from the central concern of states with their *security* intelligence. However, it would be better to see business intelligence on a continuum with security intelligence rather than as qualitatively different. At times these will shade into one another, for example, where the transnational activities of corporations have implications not only for their financial health but also for state policy in terms of alliances and trade. This is especially the case with defence industries where states are usually the only (legal) market that exists.

Second, there are those companies whose operations, and therefore profitability, concern *security* intelligence specifically. A number of factors have accounted for the significant growth of these private security companies (PSCs) since the end of the Cold War. First, there was a 'downsizing' of western security and intelligence agencies and thus a potential supply of experienced and skilled intelligence personnel. Second, many smaller states lost the support of their former Cold War sponsors and, lacking their own state personnel, turned to the corporate sector when they required expertise.<sup>3</sup> We only have a clear view of the extent of the privatisation of intelligence in the US where, by 2006, about 70 percent of the intelligence budget was outsourced to contractors.<sup>4</sup> Of the 854k people with top secret clearances by 2010 about 265k were contractors; for example, at the CIA about 10k, a

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2 Kahaner 1996; Sharp 2009.

3 e.g. Avant 2005; Singer 2003.

4 Shorrock 2008, 6.

third of the workforce, were contractors, mainly temporary and often former government intelligence employees.<sup>5</sup> And these people were not just carrying out peripheral roles:

At the CIA, private contractors have recruited spies in Iraq, paid bribes for information in Afghanistan and protected CIA directors visiting world capitals. Contractors have helped snatch a suspected extremist off the streets of Milan, interrogated detainees once held in secret prisons abroad, and watched over defectors holed up in the Washington suburbs. At Langley headquarters they analyse terrorist networks. At the agency's main training facility in Virginia, they are helping mold a new generation of American spies.<sup>6</sup>

Some actions have been highly controversial such as the involvement of contractors in interrogation at Abu Ghraib and the controversial behaviour of some *Blackwater* operatives.<sup>7</sup> PSCs may be significant in newer democracies also, as we shall see below. In the context of systemic pressure on state budgets, ever-increasing corporate competition for trade and resources and continuing widespread security concerns, a significant role for corporations will surely persist.

The third, 'para-state',<sup>8</sup> sector of intelligence existed prior to the modern state and is still highly significant wherever the state is not the decisive intelligence actor.<sup>9</sup> This is manifested in numerous ways with varying degrees of organisational formality: national liberation movements, paramilitary groups, clan, tribal or religious militias, and criminal organisations. What these 'non-state armed groups'<sup>10</sup> or non-state 'sovereignties'<sup>11</sup> have in common is their willingness to use violence to control people, resources, or territory with various political, ideological or economic motives. Their activities are very similar to those of states, although in many cases they will be clearly 'illegal'. It is the violence used by militias or criminal organisations that most obviously threatens states' Weberian monopoly of legitimate coercion but they will sometimes be operating in alliance with or 'on licence' to states. Their longevity in particular areas may be partly explained also by their performance of state functions other than security such as providing employment and 'social services'. Further, there are some social organisations who conduct 'intelligence' activities on behalf of states. 'Neighbourhood watch' schemes, for example, are encouraged by police as complementary to community policing but any use of violence by members – vigilantism – will be officially discouraged, even if officials may turn a 'blind eye' whenever

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5 Many of these employees, having been trained by government, then leave for the private sector where they are paid much more, often hired back to government to do more or less their previous jobs. In 2008 the ODNI found that contractors made up 29 per cent of the intelligence workforce but cost 49 per cent of the personnel budget. Priest and Arkin 2011, 179–81.

6 Priest and Arkin, 2011, 184.

7 Scahill 2007. *Blackwater* was renamed *Xe Services* in 2009, then *Academi* in 2011.

8 Cf. <http://www.fas.org/irp/world/para/scope.htm>, May 1, 2013.

9 Bozeman 1992, 196.

10 UN Guidelines on Humanitarian Negotiations cited in: Norwitz 2009, 457.

11 Warner 2009.

the violence is compatible with state objectives. Like states, violence is not the only form of power that para-state groups deploy.<sup>12</sup>

### Governance, Intelligence and Networks

Networks are the most general method by which social life is organised:<sup>13</sup> markets resemble a network of firms in price competition and their customers; states can be viewed as a network of bureaucratically-organised public police and intelligence agencies while para-states often work through mixed family, clan or contractual networks. The end of the Cold War and the related demise of military regimes in Latin America and elsewhere have clearly brought about change to the intelligence sector in many countries: 20 years ago it was argued that in future 'Intelligence activities would involve formally a network of units where sovereignty is dispersed among non-governmental actors, international organizations and corporations...'<sup>14</sup> So it has transpired. This so-called shift from state-centric 'government' to networked 'governance' can be seen at two levels: within and between states. For example, Rod Rhodes defined governance in the UK as 'self-organizing, interorganizational networks': members exchange resources and negotiate shared purposes based on trust as well as 'rules of the game' on which they agree. Networks enjoy sufficient autonomy so the state is not 'sovereign', although it can indirectly and imperfectly 'steer' networks.<sup>15</sup> Nationally, security and public safety are so central to the very *raison d'être* of states, however, that we must question the adequacy of a network model. Globally, the lack of any global 'sovereign' does require steering such as bargaining and persuasion as between states and non-state actors<sup>16</sup> even though there are large asymmetries of power between network participants.

### From Networks to Securitism

Networks in the security and intelligence domain are relatively 'closed'.<sup>17</sup> It is the secrecy of security and intelligence policy-making and –implementation that distinguishes it from other fields of state activity. This may be required in order to safeguard sources and methods as well as technological advances but it also protects privileged access to government for senior military and corporate actors. Although Peter Hennessy argues that the Cold War 'secret state' has been replaced by a 'protective state' in the UK, as

12 cf. Gill and Phythian 2012, 53.

13 cf. Frances *et al.* 1991, 16–18.

14 Fry and Hochstein 1993, 22.

15 Rhodes 1997, 53.

16 Risse 2005, 165–69.

17 Looking at networks in general, Schaap and van Twist 1997 show that there are cognitive and social aspects to closedness which might appear at the network level as well as that of the constituent actors. In security networks, of course, these questions of culture will be overlaid with more formal requirements of vetting and secrecy.

evidenced by the public declaration of national security policies and opening of archives, secrecy continues to be significant,<sup>18</sup> as evidenced by the consternation resulting from Edward Snowden’s leaking of National Security Agency (NSA) documents from June 2013 onwards.<sup>19</sup>

While intelligence was as important in the Cold War as it is to counter terrorism, Hennessy suggests the main change is that the former was a state-to-state conflict in which each side knew the capabilities of the other but was uncertain as to their intentions, while, since 9/11, the relationship between ‘secrets’ (capabilities) and ‘mysteries’ (intentions) has been reversed. Although the substantive threat from al Qaeda is nowhere near what it was from the Soviet Union, the task of surveilling those who might carry out attacks is immeasurably harder<sup>20</sup> and this is one official reason for the attempt at ‘total surveillance’ of the Internet since 9/11. Other factors have contributed to less intense secrecy, for example, whereas public knowledge of or support for Cold War intelligence was immaterial to its success, it is crucial for effective counter-terrorism. Also, European Court of Human Rights (ECHR) decisions through the 1980s made it impossible for governments simply to pretend that intelligence agencies did not exist. But the fact remains that high levels of secrecy persist as to technological developments, procurement, operations and so on. The argument here is not that this is all unnecessary; rather, that it contributes to a distinctive policy sector that is far from democratic.

Table 1 juxtaposes a number of Weberian ‘ideal-types’ of internal security from a peaceful democracy in which police enforce the criminal law to a society at war with itself in which the military constitute a ‘garrison’ state ruling through martial law or emergency powers. While we can think of historical examples of these extremes, neither works as a model for analysing the normal or routine place of security and intelligence agencies within contemporary states hovering somewhere in between.

**Table 1:** *Institutions in main types of internal security regime*

|                             |           |   |                                   |   |                                     |
|-----------------------------|-----------|---|-----------------------------------|---|-------------------------------------|
| <b>Context</b>              | peace     | ↔ | subversion,<br>political violence | ↔ | internal war                        |
| <b>Political setting</b>    | democracy | ↔ | securitism                        | ↔ | garrison state                      |
| <b>Dominant institution</b> | police    | ↔ | intelligence,<br>special forces   | ↔ | military                            |
| <b>Law</b>                  | criminal  | ↔ | special powers                    | ↔ | emergency<br>powers/<br>martial law |

18 Hennessy 2007. David Omand (2010) also talks of the shift to a ‘protecting state’.

19 Available at: [http://www.guardian.co.uk/world/the-nsa-files?INTCMP=SRCH\\_](http://www.guardian.co.uk/world/the-nsa-files?INTCMP=SRCH_)

20 Hennessy 2007. The implications of uncertainty and ‘risk’ language for intelligence are considered in articles by Peter Gill, Mark Phythian, Michael Warner and David Strachan in *Intelligence and National Security*, 27 (2), 2012.

‘Securitism’ is suggested as a useful way of conceptualising this intermediate political setting for security and intelligence agencies with special powers targeting national security threats such as subversion and political violence. This concept is developed from the recent literature on networks and an older literature on corporatism. Corporatism was a primary model for describing state-society relationships in Europe, especially from the 1930s to 1970s. Its most extreme form was to be found in Italian fascism and German Nazism. More gentle variants – often referred to as neo-corporatism – characterised post-war Scandinavia until the 1980s, the US from 1930s to early 1980s and economic policy making in the UK from the 1960s until late 1970s when neo-liberalism apparently removed it to the historical scrap-heap. Alan Cawson’s definition is typical:

Corporatism is a specific socio-political process in which organisations representing monopolistic functional interests engage in political exchange with state agencies over public policy outputs which involves these organisations in a role which combines interest representation and policy implementation through delegated self-enforcement.<sup>21</sup>

The corporatist tradition is much older in Latin America, being traceable back to Iberian/Roman legalism and medieval corporatism, but it still provides insight into the deeper significance of modern Latin American constitutions, even though they assume a conventional social contract between individuals and the state. For example, the 1988 constitution of Brazil recognises indigenous people not only as individuals with citizenship rights but also their possession of ‘corporate rights to defend their own cultures and traditions.’<sup>22</sup>

### **Securitism 1: The State–Corporate Nexus**

So, what are the main characteristics of *securitism*? (and why not just retain corporatism?) First, as noted above, there is the distinctive presence of secrecy. It is not that corporatist economic policy making took place transparently, far from it, but the whole panoply of secrecy regarding sources and methods reinforced by the vetting of personnel is not a characteristic of economic policy-making. Second, there is almost complete *material* interdependence between security corporations and modern states: the state relies on the corporate sector for infrastructure, advice, software and hardware. Most of the critical physical infrastructure in liberal capitalist states is in private hands and, while state agencies may still provide ‘protective security’ advice in the context of increased perception of threats to ‘homeland security’, the sheer scale of the task puts a major onus on the corporations themselves. In return, corporations are dependent on states for contracts and the legal framework within which they work. As David Omand has described it: ‘The ideal is to imagine a tripartite series of confidential and private conversations between governments, the operators of the critical national infrastructure and the

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21 Cawson 1986, 38.

22 Peeler 2004, 35.

security industry supply base so that there is a shared understanding of what future needs are going to be...<sup>23</sup> In some countries this interdependence is deepened further by the direct involvement of the military in production, for example, in Brazil where the military controls aircraft, missile and armoured car manufacturers.<sup>24</sup> A confluence of states' fiscal crisis, privatisation, technological expertise and dependence for innovation on the private sector means that security governance can only take place *through* private corporations.

For example, the communications infrastructure is largely in private hands and the costs of communications interception are much reduced if the CSPs cooperate. Recently we have learned that the NSA's Prism programme collects directly from the servers of providers such as Microsoft, Google and Facebook. However, not all CSPs cooperate in this way and there is a second programme – Upstream – for the collection of data directly from fibre cables or infrastructure. NSA has been constructing a new facility in Utah for the storage and analysis of *everything* collected.<sup>25</sup> The UK's Government Communications Headquarters (GCHQ) also collects material from the cables as they come ashore from the Atlantic in an operation named Tempora.<sup>26</sup> Having collected material, SIGINT agencies face the problem of decryption which can also be solved relatively cheaply by obliging CSPs to provide the 'keys' or much more expensively by generating such massive computer power as to break the encryption.<sup>27</sup>

Third, this material interdependence gives rise to an *ideological* consensus between the self-regarding, profit-seeking of security and information corporations and their other-regarding support for governments' national security policies. Unlike pluralism where groups lobby governments for policies favourable to their sectional interest, security corporations do not have to lobby because they are fully integrated into the advisory committees and boards found at the heart of the policy process. In the U.S., for example, this identity of interest became very clear just after 9/11 when the Senate Select Committee on Intelligence called for a 'symbiotic relationship between the Intelligence Community and the private sector,'<sup>28</sup> and, according to Tim Shorrock, an ideology of the Intelligence-Industrial Complex was born from a blend of 'patriotism, national chauvinism, fear of the unknown and old-fashioned war-profiteering.'<sup>29</sup> This interdependence is further reinforced

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23 Omand 2010, 82–83. Note 'confidential and private' are states' preferred euphemisms for 'secrecy'.

24 Peeler 2004, 102.

25 Bamford 2012.

26 <http://www.guardian.co.uk/world/the-nsa-files?INTCMP=SRCH>; See articles dated June 21, 2013.

27 Bamford 2012.

28 Chesterman 2008, 1056. And cf. O'Reilly 2010, 191: state and corporate employees' 'shared predilection for pre-emptive threat assessments, combined with the cultivation of risk-based solutions, facilitates a mutually reinforcing mind-set which stimulates consensus on security matters'.

29 Shorrock 2008, 357. This symbiosis may have been particularly pronounced in the U.S. since 9/11 but there is also much evidence of its development elsewhere, for example, Avant 2005.



by the regular exchange of personnel with their shared assumptions and common skills between sectors in response to a variety of stimuli including job opportunities, lustration, and retirement.

If we are to understand the relationship between intelligence and democracy, this integration of states and corporations in making and implementing security policy requires a different approach from one which assumes that state and society are mutually exclusive and can be studied in isolation from each other.<sup>30</sup> Security policy rarely manifests the kind of competition for influence and contracts that characterises pluralism and there is often high dependence on a small number of international defence contractors which restricts the ability of the state to 'punish' firms if performance fails to meet requirements. In Germany, Elke Krahmman suggests, this dependence has been formalized 'in a corporate format.'<sup>31</sup> Further, older corporatism required that states dealt with recognised monopoly representatives in order to maximise the control that associations could exert over their members in the implementation of whatever policy was agreed; in the security sector the presence of such associations is useful for the efficiency of discussions about regulations<sup>32</sup> but it is not necessary: self-regulation of member corporations is built-in to the contracts they have with states.

Conor O'Reilly has shown that these mutual interests between state actors and the transnational security consultancy industry amount to a 'symbiosis' although he notes also that the practices of 'bidding back' and over-charging look decidedly 'parasitic'. Key elements of these relationships include the actors' preference for informality (although this does not deny the number of formal relationships between state and corporate bodies such as those referred to above), the shared discourse of risk-management, and the interchange of personnel where former insiders harness access to their own professional networks and provide information on how the policy process works.<sup>33</sup> This may all be legal but, similarly, a recently-leaked report by the UK Serious Organised Crime Agency revealed extensive illegal information gathering by private investigators including accessing police databases and telephone hacking on behalf of various corporate and individual clients. One of SOCA's conclusions was:

The ability of the (private) investigators to commit such criminality is supported by the absence of regulation in the industry, an abundance of law enforcement expertise either through corrupt

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30 cf. Jessop 2008, 63–65.

31 Krahmman 2010, 250.

32 For example: '...it is encouraging that the relevant (defence industrial) UK trade associations are working with government through the Resilience Industries Suppliers Council, RISC' Omand 2010, 82.

33 O'Reilly 2010.



contacts or from a previous career in law enforcement, easy access to specialist experts and abuse of legally-available technology.<sup>34</sup>

Research in Serbia has provided an excellent illustration of ‘securitism’ in action. The context is a private security sector that has grown extensively in the last twenty years without any specific regulation so that most of the 30,000 or so employees work illegally. The growth of the largest companies correlates with periods when their political party ‘owners’ were in government (see further below). Criminal organisations also establish PSCs in order to obtain guns and provide legal cover for activities such as protection rackets and drug trafficking. Many of the smaller companies, known as ‘detective agencies’, are involved in various private surveillance activities including personnel checking and business espionage. The state is involved in various ways: the absence of lustration or opening of former Serbian State Security Service (SDB) files leads to a continuation of some of their old front organisations, there is evidence of current agencies sub-contracting to private companies and of police moonlighting for security companies, some of which are connected with criminal groups.<sup>35</sup>

State-corporate intelligence collaboration may be legal or illegal anywhere and much takes place in a ‘grey’<sup>36</sup> area in between but the dominant context of informality and secrecy poses great difficulties for those who would regulate the relationship.

## **Securitism 2: Para-States and Intelligence**

These difficulties are intensified when we take account of the third – non-state, non-corporate – sector of security and intelligence actors. In the absence of state capacity, para-states may well provide a basic level of security that achieves some degree of legitimacy among local people even if, often in the name of crime control and social order, they provide no protection of individual human rights. However, as Todd Landman points out, ‘[...] anthropological and ethnographic research on violence in Latin America reveals that many citizens living under conditions in which failing state institutions cannot provide adequate protections do not necessarily consider the use of violence as a means to an end illegitimate.’<sup>37</sup> The situation is similar in Indonesia where notions of democratic control of state agencies cannot deal adequately with the complexity of corporate and community organisations that also perform intelligence and security functions.<sup>38</sup> Much concern is expressed, especially by outsiders, at the threat posed by ‘no-go’ areas in cities, failed states, offshore financial markets and tribal areas such as those on the Afghanistan–

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34 SOCA 2008. See also Lubbers 2012, 135–58 for a detailed account of state–corporate cooperation in the surveillance of environmental activists.

35 Petrović 2011.

36 e.g. Hoogenboom 2006.

37 Landman 2010, 230–31.

38 Gill and Wilson 2013, 173.

Pakistan border but these areas are not literally ‘ungoverned’; governance is exercised by non-state actors such as insurgents, warlords, clans and private corporations.<sup>39</sup>

Wealthier communities may contract private security corporations but in countries throughout Latin America these often degenerate into mafias and paramilitaries and some attempts at community policing have gone the same way.<sup>40</sup> Martha Huggins, writing about death squads in Brazil during and after military rule, concluded:

Finally, this privatization of internal security, driven ultimately by particularistic rather than communal and civic interests, institutionalizes an ever more privatized and sub contractual social control response that at least appears to operate parallel to the formal system, yet in fact is syncretized with it.<sup>41</sup>

Such ‘parallel power networks’ were a feature of Guillermo O’Donnell’s Latin American model of ‘bureaucratic authoritarianism’ which was based on the material and ideological communities of interest between state bureaucrats and outside corporate interests to the exclusion of popular or democratic forces.<sup>42</sup> Such networks are a central element of securitism though they may permeate politics more generally.

The state may be defined in terms of its monopoly of legitimate force but sub-contracting to a non-state group will not automatically be illegitimate; states can ‘outsource’ *coercion* as much as postal services although it carries much greater risks and should be subject to close scrutiny. Domestic and international law on *intelligence* collaboration is severely underdeveloped and any sub-contracting of illegal operations will be ‘plausibly denied’ with impunity often ensured by the reluctance of police and prosecutors to become involved. Prominent examples include the CIA’s Operation Mongoose to recruit the Mafia to assassinate Fidel Castro after the 1961 Bay of Pigs invasion failed to overthrow his government.<sup>43</sup> Several plans, from exploding cigars to diving suits impregnated with poison failed, as is evident from Castro’s longevity. In Northern Ireland ‘collusion’ between UK security forces (army, police and MI5) resulted in the killing of a number of alleged Republicans by the Loyalist paramilitary group, the Ulster Volunteer Force.<sup>44</sup> More recently, in Iraq, the apparent success of the US surge in reducing the levels of violence in Iraq in 2007 was widely accredited to the mobilisation of the Sons of Iraq to fight against al-Qaeda instead of supporting their insurgency.<sup>45</sup> UK forces in Basra sought to maintain peace similarly by co-operating with the Mahdi army.

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39 Clunan and Trinkunas 2010.

40 Arias and Goldstein 2010, 8, 20; Diamint 2007, 164–65.

41 Huggins 2000, 211–12.

42 O’Donnell 1977, 47–87.

43 e.g. Ranelagh 1987, 385–90.

44 Gill 2011; see also report of de Silva 2012 on murder of Patrick Finucane.

45 [http://topics.nytimes.com/top/news/international/countriesandterritories/iraq/awakening\\_movement/index.html](http://topics.nytimes.com/top/news/international/countriesandterritories/iraq/awakening_movement/index.html), December 21, 2010.

Does it follow that any reliance on this third intelligence sector is a sign of weakness or, ultimately, state failure? Not really; we must clarify what the state's 'monopoly' actually means. If it is taken to refer to the states' own coercive tools – military, intelligence, police – as well as those it licences in order to achieve security 'at a distance', then the concept of monopoly is more or less intact. The Cuban and Northern Irish cases above reflected not that the state had lost its monopoly; rather that it wanted deniability. But there are other cases where states do lack capacity and sub-contract or deal with groups who can fill the gap, as is the case in Latin America where 'Violent groups ... are incorporated into the state through networks that tie them together with civic actors, bureaucrats, and politicians.'<sup>46</sup> Where states lose control of the 'licensee' (assuming they ever had it...) or the different objectives and interests of the para-state outweigh or overwhelm those of the state, then the state has lost its monopoly. In Iraq, for example, the U.S. may have financed the Awakening but it is not obvious that it 'controlled' it. But there is no equivalent state intelligence monopoly: corporations and para-states may quite legally develop intelligence for their own purposes, unlike any use of private violence. Thus the flow of information between the three sectors will be much more extensive than the deployment of violence (whether licensed or unlicensed) and will tend to greater informality and invisibility. Securitism implies that, depending on the circumstances, any one of the three sectors might be the dominant partner.

There are plentiful examples of negative state intelligence contacts with non-state groups but they may be more positive, for example, sharing information as part of conflict-resolution and peace-keeping.<sup>47</sup> During the 'Troubles' in Northern Ireland, there were systematic contacts between members of MI6 and Provisional IRA through intermediaries which, eventually, contributed to the start of the formal 'peace process' in 1994. Similarly, the CIA has been a central player in Middle East peace negotiations.<sup>48</sup> The efforts may or may not be successful but, from the point of view of governments who refuse to be seen 'talking to terrorists', the intelligence services provide one of the few options for backchannel negotiations with para-states. Success in these negotiations or some form of regime change may then give rise to the intriguing prospect of incorporating intelligence operatives from an insurgent group into a reformed state service. South Africa provides an excellent example of this from 1992 onwards.<sup>49</sup>

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46 Arias 2010, 131.

47 e.g. de Jong, Platje and Steele 2003.

48 Shpiro 2003.

49 e.g. Dombrowski 2007; O'Brien 2008.

### Securitism 3: The Dangers of Parallelism

If representatives of pro-democracy groups or insurgents take jobs in newly-reformed states while retaining links with the non-state group, the result has been described as 'delegative corporatism'.<sup>50</sup> This is an entirely natural consequence of democratisation but may be problematic if these contacts involve people with security intelligence functions and amount to 'parallelism'. Conversely, if intelligence agents are removed from office by some process of lustration and feel themselves aggrieved or without an adequate pension, then they may rapidly find employment with either a corporate or illegal organisation where they are able to deploy their skills and contacts.

'Parallelism' remains an issue in South East Europe. For example, in Bosnia there were three separate intelligence services allied with nationalist parties.<sup>51</sup> The Bosniak SDA had several spying services: Agency for Intelligence and Documentation targeting Serb and Croat politicians; Moslem Intelligence Service spying on dissident Moslems; and Seve, a small terrorist group linked to the Ministry of Interior that was still engaging in criminal activities including contract killing and unauthorized surveillance after the war. In Croatia, at least until Tudjman's death, there were said to be several secret services employing more than a thousand people and operating in Western Herzegovina including the Secret Intelligence Service, Mostar-based Service for National Security (SNS) and Croatian Intelligence Services (HIS). Mary Kaldor concluded ten years ago that there was a gradual elimination of informal security forces as a result of the capture of war criminals and erosion of sources of finance but that the task had not been completed 'especially in the area of intelligence services'.<sup>52</sup> Such activities are specifically prohibited in the BiH Law on OSA/OBA.<sup>53</sup>

In Serbia, Tim Edmunds defined 'the rapaciously partisan cooption of security sector actors to a particular political party or personality' as 'partification'.<sup>54</sup> Serbia had multiple intelligence agencies, for example, Milošević had unambiguous control over the SDB and saw it as more reliable than the military. In the 1990s SDB was used for assassinations and sanctions-busting involving links with criminals such as Željko Ražnatović 'Arkan'. From 2000 onwards the multiple agencies sought deals with political factions and individuals to defend themselves, while the politicians were anxious to develop 'allies in uniform'. Thus the new post-Milošević government sought to control intelligence agencies through partification rather than subordination to civilian authority. SDB was re-named the Security Information Agency (BIA) in 2002 and, in general, there has been a 'steady consolidation of civilian authority over the intelligence sector in Serbia...' but it has been

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50 Grodsky 2009.

51 Woodward 2003, 285.

52 Kaldor 2003, 219–224.

53 Kocsis 2008.

54 Edmunds 2008, 26 fn2.

hampered by wider problems of political fragmentation and insufficient administrative capacity.<sup>55</sup> As we saw above, the parties in Serbia still maintain their 'own' PSCs.

In Kosovo controversy remains as to whether former party-based intelligence services such as PDK/SHIK<sup>56</sup> or, to a lesser extent, LDK/Homeland Security are still active and, if so, how far they seek to manipulate elections as well as being involved in a business/crime nexus. There seems little doubt that SHIK was supported by the United States during and in the aftermath of the war but became widely involved in political spying, intimidation and election fraud. SHIK announced that it was disbanding in June 2008 but the assumption is widespread that its former personnel remain active in politics, business and crime.<sup>57</sup>

### Securitism 4: Special Powers

Table 1 shows that it is 'special' rather than 'emergency' powers that are distinctive to securitism. Domestic security and intelligence agencies are central actors whenever governments resort to emergency powers but they are not a *defining* element of securitism. Whereas states of emergency are more or less temporary, special powers are a *permanent* and *necessary* feature of security intelligence work. Although much intelligence work develops open source information and does not directly infringe on anyone's rights, the distinctive *raison d'être* for intelligence agencies is that they do have powers to infringe on human rights.

Before the end of the Cold War almost all intelligence agencies were created by executives without legislation and agencies' covert information gathering powers were exercised at the discretion of the state and without any legal redress for citizens. This became increasingly untenable: McDonald's (1977–81) inquiry in Canada into the misdeeds of the Royal Canadian Mounted Police (RCMP) argued that, if states believed security threats were so significant as to require special powers for their apprehension, then states must legislate accordingly. Legislation would identify the nature of the powers, the process by which their use could be authorised and a system of oversight by which citizens might reassure themselves against abuse of the powers.<sup>58</sup> The ECHR decision in *Klass v. FRG* (1978) invoked similar reasoning and provided the basis for most subsequent cases<sup>59</sup> which structured the development of the statutory framework for intelligence activities throughout Europe and the U.S. Foreign Intelligence Surveillance Act 1978 similarly. It is important to note that the law empowers as well as potentially restricts the action of state

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55 Edmunds 2008, 30–38.

56 This is sometimes referred to as K-SHIK to distinguish it from the Albanian intelligence service.

57 e.g. Bokshi 2011; Phillips 2010.

58 McDonald 1981.

59 Cameron 2000, 17.

officials;<sup>60</sup> this is reflected in the increased employment of lawyers within the agencies to advise on operational planning.

## Conclusion

The existing tools for the analysis of intelligence and democracy are inadequate. An institutional approach provides a solid start since it can be applied both to states and corporations, while taking account of their partly differing priorities (public interest versus profit). However it does not provide an adequate analysis of state-corporate *relations* that are such a key element of the current security and intelligence architecture. The literature on corporatism alerts us to the close integration of public and private actors but, in some respects, this older model has been transcended by the more recent emphasis on 'governance' and the need to take account of actors who are neither state nor corporate.

There are many possible permutations of the state-corporate-para-state nexus and securitism will facilitate the mapping of these relationships which may swing rapidly between poles of consensus and conflict over time. Therefore, democratisation has to be defined not just in terms of democratic control of government security policies but also in the development of sufficient state security capacity to ensure the legality and effectiveness of the more or less autonomous power structures with which they are intertwined.<sup>61</sup> Rut Diamint concludes her study of military and police in Latin America by noting the persistence of reserved domains, 'The democratic state was reluctant to reveal the truth; it maintained strongholds of discretionary power and impunity. These decisions have torn the social fabric and strained the credibility of the rule of law.'<sup>62</sup> The question for comparative researchers into intelligence is to what extent this is true elsewhere and how to meet the political challenge securitism poses as a mode of security governance.

Much progress has been made in the last 20–30 years in providing the groundwork for democratic control of *state* intelligence: intelligence activities have been 'legalised' by means of legislation and formal oversight mechanisms established, usually including some parliamentary committee, but informal oversight has also developed to the extent that independent media and an active civil society are engaged in security policy. By comparison, there has been little, if any public debate on how to control the activities of corporations. There are a number of mechanisms with potential for overseeing the corporate sphere such as law, contract conditions, auditing, and public reputations; for example, Chris Kinsey suggests there is some potential for the development of 'corporate social responsibility' in PSCs.<sup>63</sup> But there are a number of reasons why these

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60 Cf. Lustgarten and Leigh on the role of executives and covert action: 'The double-edged character of legal norms when used in this realm is one of their main advantages.' 1994, 498.

61 cf. Tilly 2007, 137.

62 Diamint 2007, 167.

63 Kinsey 2008.

market and reputation-driven checks may falter in practice. First, considerations of commercial confidentiality combined with national security mean that citizens just will not know precisely what is being contracted and at what cost. Second, however strong the identification of contractors with government policy, the fact remains that their firms exist to make profit, not serve the public interest. Given the growing symbiosis noted above, there is a clear danger of public policy being subordinated to profitability. Third, market disciplines are much reduced when, as in security contracting, there may be only a few firms with the relevant capacity. Furthermore, it sounds like a contradiction in terms to talk of the 'democratisation' of para-states, the more so the greater their involvement in illegal and/or violent activities. But to the extent that they have some degree of legitimacy among people, they have to be reckoned with. They may never achieve democratic status if this is defined in such procedural terms as regular competitive elections but if their longevity is based on the provision of services in an area unreached by the formal state, then policies of accommodation and negotiation are likely to achieve more than futile efforts at elimination.

This argument has concentrated on the analytical rather than normative uses of 'securitism' in understanding the contemporary governance of intelligence. The growing interdependence between the three intelligence sectors denies us any choice as to whether we 'adopt' securitism or not; it is a consequence of irreversible developments in the global political economy. But, like intelligence itself, it does have the potential for both good and ill. There is inadequate space here in which to consider these fully but we can identify the main items on the 'balance sheet' that could inform more detailed research in specific regions or countries. Positively, if intelligence is to be efficient and effective in seeking national security and public safety, then the closer the relationship with corporate producers of software and hardware the better. The movement of personnel between state and private sectors can, with appropriate training, result in a shared intelligence culture that also increases effectiveness and may reduce the friction between competing agencies that can cause 'turf wars.' Informal contacts between the sectors can help with backchannel negotiations in otherwise intractable disputes. On the other hand, apparent savings to the public budget may be more illusory than real as personnel trained at public expense are poached by private companies and then 'leased' back to the state at higher cost. A shared intelligence culture may feed into a joint determination to resist oversight and, possibly, the sub-contracting of illegal operations from weakly overseen state agencies to the corporate or parastate sectors where external oversight is non-existent. Interdependence may be productive but it may equally contribute to the waste of public money through incompetence or, worse, corruption, concealed behind the familiar cloak of secrecy.

Finally, while there are major problems with state governance of intelligence, for example, residual authoritarianism, fragmentation, and excessive secrecy, we must recognise that only states can secure adequate resources, provide for reasoned debate and protect general public interests.<sup>64</sup> Therefore, it is necessary to develop state capacity (in order

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64 cf. Loader and Walker 2007.



to regulate private companies and suppress particularly uncivil para-states) and enhance oversight, while acknowledging that states will remain both co-operative and competitive with other sectors. This complex 'securitism' ensures that intelligence will always present a greater challenge to democratic control than any other field of state policy.

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