ARTICLES

Intelligence in the Twenty-First Century: Change and Continuity or Crisis and Transformation?

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ABSTRACT This article outlines and explores some recent changes that have taken place in the practice and organization of western intelligence. American concern with organizational reform of its intelligence community is outlined and contrasted. Other transatlantic comparisons are made, in particular concerning debates about intelligence and human rights. The legacy of British experience in Northern Ireland for attitudes to torture and preservation of the rule of law is examined. The British experience of ‘talking to terrorists’ is also explored. Prospects for, and expectations of, the future, including the likelihood of catastrophic terrorism are discussed. The argument is made that the ‘War on Terror’ is a ‘battle of ideas’ and values.

New Challenges

Intelligence has never played so prominent a role in the public affairs of western societies as it does today. The early years of the twenty-first century have publicly demonstrated the centrality of intelligence to policy – intelligence is increasingly seen to be at the heart of national (and international) security. Indeed for some critics, the failures of intelligence over 9/11 and in Iraq were responsible for some of the central political problems now facing western states. For others, 9/11 was more symptom than cause of the malaise in American intelligence. How these developments are viewed depends upon the historical, normative and political frameworks in which they are analysed. Many would contend that, whatever mistakes were made, primary responsibility for what went wrong over Iraqi weapons of mass destruction (WMD) lies with political leaders rather than intelligence...

services. The view, for example, that war on Iraq reflected pre-existing political agendas in Washington suggests that primary responsibility lay in the hands of policy-makers rather than the intelligence community. As Sir Richard Dearlove, former Chief of the British Secret Intelligence Service (SIS), has asserted: ‘The problem was the [Vice-President Dick] Cheney crowd was in too much of a hurry, really. [And President] Bush never resisted them quite strongly enough.’ Given this it is small wonder that Cheney (and Bush) viewed those American intelligence agencies that offered up unpalatable truths about Iraq as being at best uncooperative and at worst disloyal. These executive shortcomings were exacerbated in their negative effects by the manner in which the Bush presidency seemed to accrue a dangerous level of power for itself in the wake of the terrorist attacks of 11 September 2001. With the powers of the executive raised to dangerous new heights by foreign crises, echoing the situation that Arthur M. Schlesinger Jr. memorably referred

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2Stuart A. Cohen, acting Chairman of the National Intelligence Council when the 2002 National Intelligence Estimate on Iraq’s Weapons of Mass Destruction was published, later stated that: ‘Intelligence judgments, including NIEs, are policy neutral. We do not propose policies and the Estimate in no way sought to sway policy-makers toward a particular course of action. We described what we judged were Saddam’s WMD programs and capabilities and how and when he might use them and left it to policy-makers, as we always do, to determine the appropriate course of action.’ ‘A Message from Stuart A. Cohen: Iraq’s WMD Programs: Culling Hard Facts from Soft Myths’, 28 November 2003, <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB80/NIC%20Speeches%2020-20Iraq’s%20WMD%20Programs.htm>.


to as having created an ‘Imperial presidency’, American intelligence found itself propelled towards the centre of a number of important debates. Many of these debates have a universal relevance.

The argument that blame for the 2003 Iraq war and subsequent American failure lies primarily at the policy level is also supported by the fact that the belief that Iraq possessed WMD was shared by the intelligence services of states, notably France and Germany, which nevertheless opposed early military intervention. Moreover, the failure of the US-led coalition to prepare adequately for post-war reconstruction lay clearly with American political leaders who disregarded warnings from the intelligence community over post-war planning. Similarly, how we view (and seek to combat) terrorism reflects normative and historical perspectives. Indeed how we define terrorism reflects certain a priori judgements. Yet what is clear is that however terrorism is defined, it did not come into existence with 9/11. Furthermore, intelligence agencies were only too aware of the threat posed by those who mastered 9/11. In December 1998, for example, Director of Central Intelligence George Tenet urged that ‘no resources or people [be] spared’ to fight Osama bin Laden. Yet such advice was not followed. (Hence former National Security Advisor Brent Scowcroft’s remark of 9/11: ‘I was not surprised. I was horrified.’) How far jihadist terrorism represents radically different or indeed existential threats to western societies raises crucial questions. What is evident is that significant changes have taken place in how intelligence is done and how it is seen to be done. This chapter outlines some of these issues, and seeks to locate them within

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12Ibid. p.1.
13Marc Sageman, for example, contends that the real threat to the West comes not from a revitalized al-Qaeda based in Afghanistan and on the borderlands of Pakistan, but from more informal cells of western-based Muslims. Marc Sageman, Understanding Terror Networks (Philadelphia, PA: University of Pennsylvania Press 2004); idem, Leaderless Jihad: Terror Networks in the Twenty-first Century (Philadelphia, PA: University of Pennsylvania Press 2008).
broader historical and comparative frameworks. In so doing, it is clear that different states have responded in different ways to similar challenges, in particular to the ‘War on Terror’.

Intelligence Liaison

Some of the more discernible and significant changes of recent years have come in the multilateral and bilateral relationships between intelligence and security services. These have presented new opportunities for western states, but also raised new challenges not least with the ethical and political problems of dealing with unsavoury regimes or unsavoury (indeed barbaric) practices. The role and nature of intelligence collaboration in the context of globalization (including the suggestion that intelligence itself has become globalized) now form one of the legacies of 9/11.14 Traditional multilateral relationships have been strengthened, particularly in the field of counter-terrorism.15 ‘Special relationships’ (e.g. UK–US, US–Israel) would appear to have been strengthened even though American practices (e.g. extraordinary rendition, ‘enhanced interrogation techniques’) pose ethical, political and legal challenges for some of America’s allies. Other relationships have increasingly taken on the form of such special relationships, such as that between the US and Australia.16 Equally significant is that the pattern of institutional relations and networks has changed. New forms of cooperation in intelligence-led policing have emerged, notably with the development of Europol. And law enforcement agencies, notably the FBI, have developed new international roles and responsibilities. In addition, in the United States, demarcation of intelligence gathering and para-military activity has become blurred as the CIA and the Pentagon have each sought to expand their missions and responsibilities.17

More intriguingly, intelligence has acted as a driver in changing political relations, most dramatically in facilitating the conversion of Libya away from its ‘rogue state’ mentality and its commitment to developing nuclear

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New dynamics have been generated in complex political relationships, for example with Syria. Perhaps most significant and problematic is the relationship between western states and Pakistan, whose role in both counter-terrorism and counter-proliferation is crucial but whose internal political stability cannot be taken for granted and where elements of the Pakistani government have enjoyed clear or ambiguous relations with the Taliban and sponsors of al-Qaeda.

Discussion of ‘western intelligence’ and the changes that have occurred since 9/11 and the war on Iraq inevitably focuses on the United States. Yet as with the more general study of intelligence it is important to recognize potential problems in deriving concepts and understanding from a singular and exceptional polity. Differences in how ‘the War on Terror’ is waged, and indeed whether it is appropriate to speak of ‘a War on Terror’, are apparent among western democracies. Sir Michael Howard has observed that:

The American government reacted to 9–11, understandably enough, as if the attack had come from an enemy state. It declared war, and from that day to this many, if not most, Americans still believe that they are ‘at war’, although the precise definition of the adversary has varied over the years. But many, if not most, of America’s friends and allies believed this reaction to be mistaken.

Of course, this has only heightened the interest of scholars and practitioners of intelligence into what has actually happened in the United States in recent years (as Robert Jervis notes: ‘Failure may be an orphan, but often it is a closely observed one’). Certainly ‘lessons learned’ in Washington about major structural reform have not been followed elsewhere. The sheer scale and complexity of the American intelligence system make comparisons

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19 This is especially the case with Pakistan’s powerful Inter-Services Intelligence (ISI) agency. In August 2008 NATO’s commander in Afghanistan, US General David McKiernan, said that he was sure there existed ‘a level of ISI complicity’ with militants in Pakistan and with organizations such as the Taliban. Ron Synovitz, ‘Who Controls Pakistan’s Powerful ISI?’, Radio Free Europe/ Radio Liberty, 14 August 2008, <http://www.rferl.org/content/Who_Controls_Pakistans_Powerful_ISI/1191046.html>.


difficult, for example, with a Whitehall that self-consciously sees itself as something akin to a village. An early American ‘lesson’ from 9/11 was the need for a more centralized structure. The creation of the Director of National Intelligence (DNI) in 2004 may well mark the eventual consummation of the goals of centralization sought by the architects of the post-war American intelligence system as they reflected on the organizational failings of Pearl Harbor.23 Perhaps more significantly, the changes within the contemporary intelligence community reflect an American predisposition to respond to ‘intelligence failure’ with structural reform. Underlying this is the predisposition of American reformers to believe in ‘fixing the machine’.24 Yet scepticism remains among seasoned observers about the value of organizational reform.25 And the creation of a new Department of Homeland Security as well as the post of DNI surely risks adding new forms of bureaucratic complexity.26 Nevertheless, the suggestion that organizational pathologies require urgent attention is persuasively argued by analysts such as Amy Zegart.27 Changes have also been implemented in Britain, notably with the establishment of the Joint Terrorism Analysis Centre, housed in the Security Service (MI5), and the creation of a new Professional Head of Intelligence Analysis.28 Yet such changes at the operational level have nevertheless taken place within existing structures.

Seasons of Enquiry

One striking set of comparisons between America and its allies is in how the enquiries into the failure over Iraqi WMD went about their business, and how very different conclusions were drawn about what went wrong and what to put right.29 It should of course be noted that failure to plan for the post-war reconstruction of Iraq has yet to be subjected to independent scrutiny in America or elsewhere. The scope and focus of the US enquiries also attracted criticism that the investigations were inherently politicized, being conducted by political figures with political agendas.30

The relationship between policy-makers and the intelligence community formed a key focus in American assessments of whether the Bush administration sought to politicize the US intelligence community, and in particular the CIA, to produce intelligence that would justify a war that the President sought. There is abundant evidence that Defense Secretary Rumsfeld and his colleagues sought to devise new arrangements for processing intelligence on Iraqi WMD with what critics derided as ‘cherry-picking’ and ‘stovepiping’.31 Nevertheless the key American enquiries concluded that the CIA was culpable for its own mistakes not because of pressure from above. On both sides of the Atlantic accusations of the ‘politicization’ of intelligence nevertheless helped frame the debate and, in Britain, the relationship between policy-makers and intelligence received unprecedented scrutiny.32


Central to the self-image of most western intelligence professionals is that they are tasked with speaking ‘Truth unto Power’. One corollary of this ought to be the need to explain that the truth may be uncertain, incomplete and ambiguous. A common charge of politicization is that intelligence officials tell their political masters what they want to hear rather than what they need to know. Yet in the UK the concept of politicization remains anathema in the British higher intelligence machinery where interdepartmental perspectives are mediated by the mature consideration of the Joint Intelligence Committee (JIC). The role of the JIC and its chair became a particular focus in the UK enquiries, in particular that conducted by Lord Butler and his fellow Privy Counsellors. The Butler Report identified mistakes but did apportion individual responsibility and went out of its way to endorse the appointment of the JIC chair at the time, John Scarlett, to become Chief of SIS.33

Various Directors of Central Intelligence (and would-be Directors of Central Intelligence) have stood accused of pulling their punches and selling their integrity. DCI Tenet has defended his behaviour and that of the CIA, though his celebrated observation that Iraqi WMD was ‘a slam dunk’ have reinforced the view that he was more adept in reinforcing than challenging the assumptions of the administration.34 In Britain the JIC was accused of succumbing to the Blair government agenda for selling the war on Iraq by overselling the intelligence. The role of the JIC in taking responsibility for presenting the ‘case’ for WMD to the public was an unprecedented one, whose wisdom was seemingly doubted by Butler and his colleagues. Yet although Butler identified deficiencies in the presentation of the issues to the public, a central problem was that the intelligence itself was inadequate. What the Butler report did not investigate, any more than the other British enquiries, was the use of intelligence by ministers. Here indeed the focus on the JIC may well obscure the potentially crucial role of the direct relationship between Prime Minister Blair and senior officials.


34Following Tenet’s resignation, one commentator noted that Tenet’s phrase had captured ‘the ethos of not just one person but of an entire administration. In basketball, slam-dunks score points, please the home crowd and taunt the opposition – in the same way that supporters of the administration appreciate Bush for his decisiveness while critics deride it as arrogance’. Mark Leibovic, ‘George Tenet’s “Slam-Dunk” Into the History Books’, Washington Post, 4 June 2004, <http://www.washingtonpost.com/wp-dyn/articles/A14030-2004Jun3.html>. For opinion on the damage done by the ‘slam dunk’ remark, see Bob Graham (with Jeff Nussbaum), Intelligence Matters: The CIA, the FBI, Saudi Arabia, and the Failure of America’s War on Terror, 2nd edn (Lawrence, KS: University Press of Kansas 2008) pp.178–89.
The terms of reference for the Butler team were, moreover, carefully crafted to enable Iraq to be placed in a broader and more positive assessment of the role of intelligence in counter-proliferation. Failure in Iraq was set beside significant achievements in North Korea, Iran and Pakistan. Of particular note was the role of intelligence in the case of Libya, which taken in concert with the American government helped facilitate a transformation in Libya’s approach. While not surprisingly Iraq remained the focus of public concern, success in using intelligence-led diplomacy proffers an alternative to those whose instincts and preferences are for military action and preventive attack in counter-proliferation.

War (sic?) on Terror

The perception that intelligence is at the heart of national and international security reflects a set of assumptions about (and definitions of) security. The threat of global environmental degradation and the existential threat of global poverty far transcend in scale and human suffering any possible threat from jihadist terrorism, save for the very worst case scenarios of nuclear terrorism. And there are those who have queried the efforts of the ‘terrorism industry’ to inflate and distort the threat from jihadist terrorism. Such arguments are important, if for no other reason, because they place the debates in a more rounded perspective. Yet for western societies, jihadist terrorism constitutes a threat that is unlikely to disappear quickly, and if poorly managed will do great damage to the values and stability of those societies as well as how they conduct their foreign relations.

While intelligence is frequently and understandably reduced to a concern with tracking networks of would-be killers and preventing them from carrying out attacks and atrocities, the equally fundamental role of intelligence is to foster understanding of the contexts – at home and abroad – in which those who are our enemies became our enemies, and how others may well become so. There are also those who see intelligence as proffering some hope in how they might cease to be enemies. There remain similar conflicts and tensions between ‘demands of security’ and fundamental principles of human rights, although European human rights legislation, most importantly now incorporated into the domestic law of EU states, provides a point of contrast with the United States. Here the European counter-terrorism agenda takes a different form to that in America.


36For discussion of some of these issues see Peter Gill, ‘Security, Intelligence and Human Rights: Illuminating the Heart of Darkness’, this volume, pp.78–102.
Differences remain between European states, though whether British attitudes remain wedded to more transatlantic perspectives, as in recent NATO debates over the expansion of NATO and the handling of the Russian–Georgian conflict, will emerge as Barack Obama’s security policy takes shape. Yet British experiences in counter-terrorism suggest points of departure from American practices and debates. British government experience of countering terrorism and political violence in Northern Ireland has left several legacies. An important lesson that senior British officials learned was that letting ends justify means, including the introduction of internment and ‘deep interrogation’ techniques, was ‘self-defeating’. Sir David Omand has noted that such practices provided ‘very limited additional intelligence at the costs of a propaganda disaster that turned many moderates in the community against the authorities’. Such lessons can be derived from many other counter-terrorist and counter-insurgent campaigns in which the British sought to balance security measures against winning ‘hearts and minds’. Yet, as the British (and later the Americans) learned during the post-1945 era, balancing counter-insurgency with ‘hearts and minds’ measures was extremely difficult. And it still is. It nevertheless remains an essential pre-condition if the insurgent/terrorist is to be separated from the population at large. Drawing parallels between Vietnam and Iraq is an inevitable temptation. In this vein, a former Defense Secretary in the Nixon administration recently concluded that:


Ibid. p.149.


On this, see John A. Nagl, Learning to Eat Soup with a Knife: Counterinsurgency Lessons from Malaya and Vietnam (Chicago, IL: University of Chicago Press 2005).

As one who orchestrated the end of our military role in Vietnam and then saw what had been a workable plan fall apart, I agree that we cannot allow ‘another Vietnam.’ For if we fail now, a new standard will have been set. The lessons of Vietnam will be forgotten, and our next global mission will be saddled with the fear of its becoming ‘another Iraq.’

In reality, while the memory of Vietnam is fading, influential voices are already identifying the existence of an ‘Iraq syndrome’.

American practices in Guantanamo Bay have called into question whether the United States is honouring its commitments to the UN Convention on Torture and other international agreements. Public debate about torture has been kindled at least within the United States. And, in consequence, terms such as ‘torture lite’ and practices such as ‘waterboarding’ have now entered the political and intelligence lexicons. The British experiences in Northern Ireland are of direct relevance for these debates. In 1971 the British army employed what were known as the ‘five techniques of interrogation’ involving wall-standing, hooding, continuous white noise, food denial and sleep deprivation. In judgments in 1976 and 1978 the European Court of Human Rights subsequently found the British government guilty of ‘inhuman and degrading treatment’. By then the practices had been largely discontinued,

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43Andrew Priest, ‘From Saigon to Baghdad: The Vietnam Syndrome, the Iraq War and American Foreign Policy’, this volume, pp.139–71.


48The government of the Republic of Ireland took a case to the European Commission on Human Rights on behalf of the men who had been subjected to the interrogation practices adopted by the Northern Ireland and British governments during Operation Demetrius in the early 1970s (Ireland v. United Kingdom, 1976 Y.B. Eur. Conv. on Hum. Rts. 512, 748, 788–94 (Eur. Comm’n of Hum. Rts.)). The Commission stated that: ‘the systematic application of the techniques for the purpose of inducing a person to give information shows a clear resemblance to those methods of systematic torture which have been known over the ages . . . [T]he Commission sees in them a modern system of torture falling into the same category as those systems applied in previous times as a means of obtaining information and confessions.’ Quote: Nigel S. Rodley, The Treatment of Prisoners under International Law, 2nd edn (Oxford: Oxford University Press 1999) p.92. For the January 1978 ruling on Britain’s unsuccessful appeal (Case Number 5310/71), see <http://teaching.law.cornell.edu/
partly because of revulsion and embarrassment, but also through recognition that such measures and other actions – primarily deployed, as they were, against the Nationalist community – were largely counter-productive.\footnote{On British treatment of terrorist suspects in Northern Ireland, see John McGuffin, The Guinea Pigs (London: Penguin 1974). On British army operations in this period, see Caroline Kennedy-Pipe and Colin McInnes, ‘The British Army in Northern Ireland 1969–1972: From Policing to Counter-terror’, \textit{Journal of Strategic Studies} 20/2 (1997) pp.1–24.}

In the United Kingdom there is political and intellectual consensus that torture remains anathema.\footnote{On this as generic feature, see John Conroy, \textit{Unspeakable Acts, Ordinary People: The Dynamics of Torture} (Berkeley, CA: University of California Press 2001); Darius M. Rejali, ‘Torture Makes the Man’, \textit{South Central Review} 24/1 (2007) pp.151–69.} There is also political consensus that torture remains torture. The principles and definitions of the UN Convention on Torture have not been challenged as they have in the United States by those who seek to redefine whether ‘enhanced interrogation techniques’ represent torture or not. The idea that Britain is nevertheless indirectly or in some cases directly involved in supporting or benefiting from those who use techniques of torture is a matter of controversy, and has even extended to protests within government. The former British Ambassador to Uzbekistan, Craig Murray, protested within the Foreign Office at what he saw as UK complicity in particularly barbarous forms of interrogation in Uzbekistan and the exploitation of these practices to procure what he believed was worthless intelligence.\footnote{Craig Murray, \textit{Murder in Samarkand: A British Ambassador’s Controversial Defiance of Tyranny in the War on Terror} (Edinburgh and London: Mainstream 2006).} Having resigned from the Foreign Office he has actively campaigned on these issues.

Disquiet about American practices at Guantanamo Bay and those involving extraordinary rendition and ‘enhanced interrogation techniques’ permeate Westminster and Whitehall.\footnote{For an example the report of the Parliamentary Intelligence and Security Committee, \textit{Rendition}, Cm 7170 (The Stationary Office, July 2007) and the \textit{Government Response to the Intelligence and Security Committee’s Report on Rendition}, Cm 7172 (The Stationary Office, July 2007). See also the work of the All Party Parliamentary Group on Extraordinary Rendition (APPGER), established by the Conservative MP, Andrew Tyrie in December 2005, \url{http://www.extraordinaryrendition.org}.} The argument that torture is wrong because it is wrong commands strong support across all political parties in Westminster as well as within Whitehall. So does the argument that it is wrong because it is counter-productive. For politicians and senior officials, at least, it is unnecessary to disentangle the deontological from the consequentialist.\footnote{For an outline of the application of these approaches to intelligence see Toni Erskine, “‘As Rays of Light to the Human Soul?’ Moral Agents and Intelligence Gathering’ in L.V. Scott (ed.) Intelligence in the Twenty-First Century (Copenhagen: Hans Blix Institute 2007).} Yet problems persist where British relations with the United States are seen to involve complicity in unethical or illegal activity.
The most prominent debates on counter-terrorist policy in Britain have concerned how long suspects could be held without being charged. The governments of Tony Blair and (and until recently) Gordon Brown insisted on 42 days. In October 2008 this demand was dropped in the face of heavy domestic opposition and the British Home Secretary, Jacqui Smith, declared that ‘I deeply regret that some have been prepared to ignore the terrorist threat, for fear of taking a tough but necessary decision’. Undeterred by such language (and logic), opponents of 42-day detention, including the Official Opposition Conservative Party, denounced the insistence of the Blair and Brown governments in similar terms to Sir David Omand’s characterization of British action in Northern Ireland in the 1970s. One intriguing aspect of the debates has been the contributions of recently retired officials. The former Director-General of the Security Service, Eliza Manningham-Buller, has stated that she does not ‘see on a practical basis, or on a principled one, that these [42-day detention] proposals are in any way workable’. Such statements reinforce the impression that senior officials within the Security Service may have reservations about the policy being pushed by the government. One specific feature of the American debates about torture (and its ethical justification) concerns ‘the ticking bomb’ scenario in which a terrorist is known to have prepared an explosive device that will cause catastrophic damage (especially in scenarios involving a radiological bomb or even a nuclear weapon) and interrogators have little time to extract information about where the bomb is planted. Such scenarios are of course the stuff of fiction though also the stuff of worse case nightmares after 9/11. Yet as Kennedy-Pipe and Mumford note, in some 30 years of ‘The Troubles’ in Northern Ireland, ‘there was, in the whole history of the Irish case, not a single example of anything remotely resembling the “ticking bomb case”’. The experience of applying harsh measures in pursuit of counter-terrorist adversaries is by no means confined to the British (the French, for example, and P.D. Jackson (eds.) Understanding Intelligence in the Twenty-First Century: Journeys in Shadows (London: Routledge 2004) pp.195–215 (and Intelligence and National Security 19/2 (2004) pp.359–81).

54This was part of a speech of 13 October 2008 in which Smith told the House of Commons that plans to extend terror detention to 42 days would be removed from the proposed Counter-Terrorism Bill. This resulted from a heavy defeat for the government in the House of Lords by 309 votes to 118. But the Home Secretary also declared that the 42-day rule might be re-introduced in the future as a separate piece of legislation if required. The Shadow Home Secretary, Conservative Dominic Grieve, told Smith that ‘You somewhat demean yourself when you, yet again, come back to this argument that those who oppose the government’s measures are weak on terrorism.’ ‘Ministers shelve 42-day detention’, BBC News, 13 October 2008, <http://news.bbc.co.uk/1/hi/uk_politics/7668477.stm>.

55Baroness Manningham-Buller, HL Deb., Vol. 703, Col. 647, 8 July 2008.


engaged in a bitter war against Algerian nationalists between 1954 and 1962). But, without doubt, understanding how jihadist terrorists are recruited and motivated remains a crucial priority for security services. Perhaps the most worrying and difficult challenge concerns the speed with which sympathizers can be turned into activists and then terrorists. Yet one tried and trusted means of ensuring failure in the ‘War on Terror’ is surely to alienate those on whom the terrorists may depend and from whom they will certainly recruit. This is certainly what the British did when they introduced internment without trial in Northern Ireland between 1971 and 1975 (providing, as it did, ‘a powerful recruiting sergeant for the [Irish Republican Army]’). As the backbench Labour MP, Diane Abbott, argued in 2001:

Let me remind the House [of Commons] that it has long been accepted ... that internment was one of the best recruitment sergeants that the IRA ever had. We are supposed to be acting against terrorism and reassuring young people, whether they are Muslim or Catholic, about the fairness of British society and the things that we stand for, but the notion of internment without trial runs clean contrary to the idea of an effective war against terrorism. Even if it were possible to persuade some of us that in certain limited circumstances – much more prescribed than those in the Bill – internment was the only practical option, the notion of internment without judicial review would be completely unacceptable.

Contrary to those European countries with large indigenous ethnic communities, the United States does not yet have to face the problem of ‘home grown’ Islamist terrorists. Rendition, waterboarding and targeted killing involve non-Americans away from American territory.

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60 HC Deb., Vol. 375, Col. 395, 21 November 2001. When introducing internment in Northern Ireland, Britain left itself open to charges that it was violating the United Nations’ Universal Declaration of Human Rights (adopted on 10 December 1948 by the UN General Assembly). It is article ten that is of particular relevance here: ‘Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.’ August Reinisch, International Organizations before National Courts (Cambridge: Cambridge University Press 2000) p.281.

Perhaps the most important lesson to draw from the past, as various British officials and former officials have made clear, is that the challenge of international terrorism is crucially a battle of ideas.\(^{62}\) Integral to that battle is the preservation of the core values and principles by which liberal democracies seek to define and promote their identity. Paul Wilkinson has identified three crucial safeguards for democratic states to observe when adopting special anti-terror legislation. First, all such measures must remain under civilian control and as democratically accountable as possible; second, the government and the security forces must conduct all operations within the law and those charged with terrorist offences must be brought before the courts of law; third, emergency powers should be adopted for only the shortest conceivable time period and be renewed in an open fashion at regular intervals (with no more than one year between reviews). Such powers should be drafted as clearly as possible and receive the widest possible circulation and the legislature must be prepared to rescind or alter such powers as soon as circumstances alter.\(^{63}\) The observation of such norms of civilized behaviour are essential in the current ‘War on Terror’. And, as Sir Richard Dearlove observes, ‘America’s cause is doomed unless it regains the moral high ground’.\(^{64}\)

Talking to Terrorists

A second legacy concerns how conflicts with terrorists can be ended or at least turned into recognizable political conflicts. In Northern Ireland the role of the British security and intelligence services in facilitating forms of communication between the British government and the Provisional Irish Republican Army (PIRA) has become apparent.\(^{65}\) More dramatic has been the revelations concerning the clandestine relationship between senior figures in the UK government and Provisional Sinn Féin, the political arm of the PIRA. Prime Minister Thatcher was adamant that she would not do deals with terrorists. This rhetoric was shared by her NATO allies at the time, even though her closest ally, Ronald Reagan, was involved in secret deals with those he had termed sponsors of terrorism in the Middle East to secure the release of American hostages in the Lebanon. While Thatcher’s successors may have shared key aspects of her ideology, John Major and Tony Blair took a radically different view to negotiating with Sinn Féin. Jonathan Powell, Blair’s Chief of Staff from 1997 to 2007, provides a fascinating account of the complex and


\(^{63}\)Wilkinson, *Terrorism Versus Democracy*, p.117.


intimate relationship that developed between the British Prime Minister and the leaders of Sinn Féin, Gerry Adams and Martin McGuinness. Powell, who emerges in his account as a key figure in the development of these relationships, has subsequently argued in favour of the idea of negotiating with the Taliban and al-Qaeda: ‘at some stage you’re going to have to talk to the people you’re fighting’. Likewise, the Chief Constable of Northern Ireland, Sir Hugh Orde, has stated that one day it may be necessary to talk to al-Qaeda.

Negotiating with insurgents has a long, opaque and controversial history. The CIA developed a relationship with the PLO in the 1970s and later sought to play a direct role in Middle Eastern peace efforts. A significant venture in clandestine diplomacy was in the negotiations between the Israeli officials and those associated with the PLO which facilitated direct negotiations between Israel and the PLO and the ensuing Oslo Accords. Nevertheless, the idea of negotiating with those who planned and supported the events of 9/11 will remain utter anathema for many Americans (and many non-Americans). Any serious consideration of such an idea must explore the purposes for which dialogue could be conducted. For those who view al-Qaeda and those it has spawned or inspired as holy warriors intent on a jihad whose goals are non-negotiable, there is no purpose in negotiating and potential harm in legitimizing an enemy motivated by religious fanaticism. Comparisons (if they can be made) are more with groups like the Baader-Meinhof ‘gang’ whose view of catalytic violence was designed to foment revolutionary objectives that would transform their own societies and whose fanaticism prohibits any compromise. Whether such clandestine diplomacy should be or can be used, any such endeavours will perforce be conducted in strictest secrecy. The more we learn about them the greater the likelihood that they will be failing.

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68 ‘Cops and Bombers: Hugh Orde, the Northern Ireland police chief denounced for advocating talks with terrorists, is not backing down. Could he soon be running the Met?’, The Guardian, 16 August 2008, <http://www.guardian.co.uk/uk/2008/aug/16/northernireland.police>.
72On this, see Stefan Aust, Der Baader-Meinhof-Komplex (Hamburg: Hoffmann und Campe 2008 edn. [1985]).
Verdicts of History?

The investigations into the Japanese attack at Pearl Harbor yielded nine inquiries. These provided considerable evidence for decades of historical analysis, reflection and debate. Yet it was not until 1962 that one of the seminal analyses of intelligence failure, Roberta Wohlstetter's *Pearl Harbor: Warning and Decision*, appeared and not until 1991 that David Kahn published an article in *Foreign Affairs* that persuasively argued the key failure of intelligence was that none of the warnings pointed to the attack coming at Pearl Harbor. It would be as hazardous to make predictions about the future of historiography as it would be to make predictions about future events. It is also the case that however much evidence is produced by however many enquiries, there will be writers and readers who prefer conspiratorial explanations to those rooted in organizational dysfunction or lapses in personal judgement. In the United States conspiracy theory has acquired the status of a cultural phenomenon (as well as that of a cottage industry). The idea that the Israeli Mossad was responsible for the attacks on the Twin Towers as a means of unleashing the wrath of the Bush administration on the Arab world appeared almost immediately. The suggestion that the American government itself was complicit in the atrocities, and indeed organized the attacks on the Pentagon are now the

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73The Knox Investigation (9–14 December 1941); The Roberts Commission (18 December–23 January 1941); The Hart Investigation (12 February–15 June 1944); The Army Pearl Harbor Board (20 July–20 October 1944); The Navy Court of Inquiry (24 July–19 October 1944); The Clarke Investigation (4 August–20 September 1944); The Clausen Investigation (24 January–12 September 1945); The Hewitt Inquiry (14 May–11 July 1945); The Joint Congressional Committee (15 November 1945–23 May 1946).


76Nor are such opinions confined to the fringes of Western society. On 30 November 2007, the former President of Italy, Francesco Cossiga, wrote an article in Italy’s best selling newspaper arguing that ‘the democratic circles of America and of Europe . . . now know well that the disastrous [9/11] attack was planned and realized by the American CIA and Mossad with the help of the Zionist world to put under accusation the Arabic Countries and to persuade the Western powers to intervene in Iraq and Afghanistan’. Francesco Cossiga, ‘Osama-Berlusconi? “Trappola giornalistica”’, *Corriere Della Serra*, 30 November 2007, <http://www.corriere.it/politica/07_novembre_30/osama_berlusconi_cossiga_27f4cee-9f55-11dc-8807-0003ba99c53b.shtml>. The former Labour Cabinet Minister, Michael Meacher MP, also suggested that the Bush administration connived in the attacks so as to facilitate its pre-existing agenda for the Middle East. See Michael Meacher, ‘This war on terrorism is bogus: The 9/11 attacks gave the US an ideal pretext to use force to secure its global domination’, *The Guardian*, 6 September 2003, <http://www.guardian.co.uk/politics/2003/sep/06/september11.iraq>.
focus of television documentaries. Yet as some of us have noted elsewhere: ‘One reason why there are conspiracy theories is because there are conspiracies. Indeed the history of covert action is the history of conspiracy.’ The need for governments to retain the confidence of their citizens is crucial to any proper public understanding of the role of intelligence in policy-making. The saga of Iraq has severely weakened that confidence far more than purveyors of bizarre or indeed ludicrous conspiracy theories.

The Crisis of Intelligence: Coming or Receding?

A lost tradition in British culture is the practice of wandering the streets bearing sandwich boards advising people: ‘Prepare to Meet Thy Doom’. In the United States intelligence reform has been touted as a means of achieving security from terrorist and other threats. The idea that whatever improvements may occur, some form of ‘intelligence failure’ is inevitable is nevertheless now well-rooted in academic study. The concept of intelligence failure is based on a particular view of intelligence and a particular view of failure. Both reflect a set of expectations about what intelligence is and what it can do. The need to understand the nature and limitations of intelligence formed a cornerstone of the Butler Report, in contrast to some of the American enquiries and debates. Various senior British officials have made clear their view that it is only a matter of time before particular kinds of catastrophic terrorism succeed. In June 2003 the then Director-General of MI5, Eliza Manningham-Buller, warned that:

Al Qaida has the ambition to carry out unconventional attacks against the West. The Al Qaida leadership have said so. The question we must ask is do they have the capability to carry out such an attack? We know that renegade scientists have co-operated with Al Qaida and provided them with some of the knowledge they need to develop these weapons. My conclusion, based on the intelligence we have uncovered, is that we are faced with the realistic possibility of some form of unconventional attack.

That could include a chemical, biological, radiological or nuclear attack. Sadly, given the widespread proliferation of the technical knowledge to construct these weapons, it will be only a matter of time before a crude version of a CBRN attack is launched at a major Western city.

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77 As seen in, for example, the DVD ‘911: In Plane Site’, <http://www.911inplanesite.com/>.
78 Len Scott and Peter Jackson, ‘Journeys in Shadows’ in Scott and Jackson (eds.) Understanding Intelligence, p.19.
Intelligence failure is a matter of expectations, and seeking to adjust expectations of what intelligence can and cannot do is surely essential to informed democratic debate. Yet if and when a catastrophic terrorist act succeeds, public confidence in the intelligence and security services will inevitably be tested. The view that intelligence is in crisis is surely overstated, although, in the United States, the CIA has been severely buffeted and its role diminished.\(^8^0\) The political problems of taking intelligence-led international action are apparent; though whether this is seen as good or bad may well depend on how particular actions, such as preventive attacks on Iran, are seen in themselves.

What is undeniable is that governments will continue to depend on gaining understanding of things that others do not wish to disclose. Furthermore, contemporary theorizing in international politics rightly emphasizes the challenges to the state as the referent point in our understanding. Whatever the need for intelligence to focus on short-term response, the need for broader horizons is essential. It is, nevertheless, equally important to recognize the continuing significance of state activity in the realm of security, particularly military security. Nuclear proliferation remains, save for idiosyncratic American iconoclasts, a matter of deep concern and an issue high on the agendas of analysts and practitioners concerned at the prospects of proliferation and the threat of regional instabilities.\(^8^1\) Here the consequences of Iraq will loom large in any attempt at preventive military attack on Iran (though whether the Israelis succeeded in carrying out a successful intelligence-led preventive attack on Syrian nuclear facilities remains an intriguing question).\(^8^2\)

The failure over Iraqi WMD means that mobilizing domestic or more importantly international support for intelligence-based military actions will be even harder. But it is also important to remember that, with the passing of the Bush administration and the eclipse of the neo-con agenda (already in

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decline for some time), semi-unilateral preventive military options are likely to attract much less favour in Washington. The shift in American foreign policy will now be especially pronounced given Barack Obama’s victory in the November 2008 election. When accepting his party’s nomination in August 2008, Obama stated that: ‘[Y]ou don’t defeat a terrorist network that operates in 80 countries by occupying Iraq … The Bush–McCain foreign policy has squandered the legacy that generations of Americans, Democrats and Republicans, have built, and we are here to restore that legacy.’ Whatever the shape of the new administration’s foreign policy, we can surely be confident that things will change.

83 The departure of Deputy Secretary of Defense Paul Wolfowitz in 2007 was hailed by many commentators as signalling the end of Neo-Con ideas as the centrepiece of US foreign policy. See, for example, Sarah Baxter, ‘Decline and fall of the neocons: Paul Wolfowitz’s departure from the World Bank signals the end of an ideological era in Washington’, The Sunday Times, 20 May 2007, <http://www.timesonline.co.uk/tol/news/world/us_and_americas/article1812924.ece>.


85 Only a few days after Obama’s election victory it was reported that a number of influential congressional Democrats would seek to remove Director of National Intelligence Mike McConnell and CIA Director Michael V. Hayden from their posts. This was due to McConnell and Hayden having been closely associated with controversial aspects of Bush administration policy on matters such as interrogation and telephone surveillance. Walter Pincus and Karen DeYoung, ‘Top two officials In U.S. intelligence expect to lose jobs: Obama silent amid conflicting advice’, Washington Post, 12 November 2008.