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Engines of oppression

There is an additional policy area that has driven contemporary states to adopt the ideology of concealment. As political observers have pointed out for centuries, coercion is a key function of the state. The state supplies the ultimate sanction over all other institutions and organizations in a society. Thus, it becomes the unmoved mover guaranteeing all other promises. The state's coercive power is the instrument that underpins its sovereignty externally and internally. In the international arena, the state's coercive capability is a deterrent to other states. Within a state's borders, the logic of the state's "monopoly of the legitimate use of physical force"¹ is that found in Thomas Hobbes: covenants without the sword are meaningless. Yet, in our contemporary time, the state has begun to conceal this role as well.

While the state's monopoly on the use of force has always been a challenge to theories of political legitimacy, the postmodern state has begun to conceal even basic police functions. Why is this a contemporary ideological need? Because, aside from challenges by other nation states, the instruments available to the nation state of today have leapt beyond any plausible opposition. Concealment of the state's coercive power reflects the need to paper over the huge gulf between the capabilities of private citizens to physically protect themselves and maintain an expectation of privacy and the state's invincible instruments of coercion and surveillance.

The technological and organizational changes found in modern military formations and police agencies represent not only quantitative improvements but also a disturbing qualitative change. In the following chapter, I discuss three different trends that support this assertion. The increasing sophistication of surveillance, including our consumer behavior in the "free market," means we face not just a reduction of privacy, but perhaps no longer have it all. The use of new military technologies like drone aircraft makes it much easier for countries, including those with democratic regimes, to wage war with less accountability. Finally, the new technologies of nonlethal force point to a future where states can ignore even the largest protests.

Throughout history, theories of political legitimacy have attempted to reconcile the coercive power of the state with morality. The state's monopoly on violence has always challenged philosophical justification ranging from arguments about the need for order to more subtle theories of "just war." The difficulty of reconciling moral authority with violence now faces an even greater challenge given the absolute coercive power available to the state. This situation leads the state to engage in unusual efforts to conceal its ability. Without this concealment, our collective myths about individual liberty and autonomy would suffer a significant blow.

Yet, the competition in the international state system forces states to develop and refine their instruments of coercion. Just as unilateral disarmament was unthinkable during the Cold War era, so too today, states must pursue new military technology like robotics lest they fall behind others. In addition to the conventional threats of war between states, there is an increasing arms race inside of states for surveillance and policing technologies that can guarantee the state's sovereignty within its borders. Arguably, the state must show other states in the international system that its "homeland" is secure before it can make credible claims to sovereignty. A secure homeland is also a place of secure financial transactions, enforceable business contracts, and lower risks of fraud. Thus, the growing complexity of market transactions has accelerated the need for internal surveillance in order to maintain business confidence.

It is important to consider the concealment of coercion separately since it is tied so closely to the state's core function of maintaining sovereignty. In this sense, the political dynamics surrounding the ideology of concealing the state should be clearer relative to this core area of state activity. Because of the links between coercion and violence, this particular area of state power has always posed the greatest challenge to theories of political legitimacy. Thus, the need for the state to now move to a strategy of concealment in this area also shows us the degree of challenge the contemporary state faces when seeking legitimacy.

Today, the state has acquired technologies that virtually eliminate privacy, ensure that enemies fight only replaceable machines rather than living soldiers, and provide non-lethal force options. The possibilities that these technologies create for controlling the population are very frightening. We can only imagine what would have happened had the totalitarian regimes of the twentieth century possessed such capabilities. The engines of oppression now available to the state have undermined past theories of legitimacy to such an extent that the state must resort to an ideology of concealment.

Historical dynamics

One of the most popular galleries in New York's Metropolitan Museum of Art is "Arms and Armor." This section is dominated in its center by a display of four complete knight's suits of armor arranged as if mounted for

battle (or perhaps more romantically, a tournament). The original purpose of the medieval suits of armor and weapons in that gallery is softened by their antiquity. Nonetheless, these antiques are illustrative of an important dynamic in history. In the past, there have been periodic stages of state development where its coercive capabilities outstrip any conceivable opposing force aside from other states. Such monopolies on force, not just *de jure* but *de facto*, remained in place until new technological developments, or new forms of social organization, broke this dominance. The knight that we can romanticize today was once a state-of-the art engine of oppression.

Indeed, the best example of this dynamic is the feudal period, marked by the great gulf between the average person and its soldiery.² Armored knights engaged in a type of warfare that was highly specialized and required enormous up-front investment. No common person could hope to challenge them on the battlefield until their obsolescence, thanks to new technology like Swiss pikes and, eventually, firearms. The other state-of-the art technology from the feudal period was fortification. The enormous investment required for increasingly sophisticated castles illustrates again the great gulf between individuals and rulers. Thus, an age that knew great disparity between the types of armed force that a state (albeit a weak one) could organize and that available to the commons was also an age of despotism. No mass uprising or communal resistance could hope to challenge the might of armored knights until technology and social change (like urbanization) provided new possibilities.

We then see a period in the sixteenth century and late seventeenth century where commoners, though often led by nobles, were able to disrupt the state. For example, in the principalities of Germany there were the great peasant uprisings inspired in part by new religious ideas.³ In Britain, we see the English Civil Wars toppling the Monarchy and its Cavaliers, thanks in part to the more modern forces of Cromwell's Roundheads. This period marks a transitional stage where the (often-crude) use of new firearms and cannon were disruptive to the received military strategy of the day.

However, the absolutist state that emerged later in Europe was able, through increased capacities like revenue collection, to reassert its distance. If we think about the problem of political philosophy that Hobbes faces in his masterwork, *Leviathan*, it was to logically call for the reestablishment of centralized state power after the English Civil Wars. Why should subjects support the restoration of a monarch after the freedom of the civil war period? For Hobbes, the obvious answer was that this freedom had become the war of all against all, and thus, we are paradoxically safer, and freer, under an absolute law-giving state.

In France, we find a very different political context. Why could the absolutist Sun King hold court at the open and unfortified Versailles? Because his absolutist, centralized state reduced the fortresses of the nobility and disbanded any rival military organization. The idea of a French noble

raising an army that can challenge the King's standing forces becomes an anachronism under Louis XIV. It is not until Louis the XVI that new forms of resistance from an urban population with firearms could threaten the monarchy.

Closer to us in time, the twentieth century gives us the phenomenon of total war and weapons of mass destruction. However, it is also a period marked by revolution and the success of guerrilla warfare. The success of guerrilla tactics is reflected in the resources devoted to the perfection of counterinsurgency doctrine by the major powers. It is also reflected in the varying degrees of failure dealt to the military organizations engaged in such fighting. One can argue that the success of the guerrilla in the twentieth century depends in part on new international norms that oppose excessive civilian deaths. Yet, this same complicating factor, the rules of warfare for the age, has often placed some limits on the technical possibilities of state violence.⁴ As the twentieth century shows, however, states have also often ignored the rules in the pursuit of total war.

From this broad historical perspective, what should we make of our contemporary situation and the armed forces of our states, especially in the developed North (or West, or whatever we want to call wealthier states)? Today, we see engines of war that are once again far beyond the capabilities of ordinary citizens. Indeed, many of these technologies are far beyond the capacity of most other nation states. Instead of being driven by metallurgy and the disciplining or reorganization of people, they are now driven by the investments in and refinements of advanced technology.

Consider that, increasingly, the most developed nations deploy robots on the battlefield. Their opponents are thus forced to engage at a great distance. The current trend points to a future where less developed nations or insurgencies send out armed combatants to engage with machines. In the case of Afghanistan, the United States has developed an entire operational infrastructure for using unmanned drone aircraft. This use of unmanned machines also reduces the visibility of coercion to its home audience. Rather than the disruption to daily life of a soldier deployed far from home, the military is able to send a machine to the battlefield. In the case of the use of drone aircraft in Afghanistan by the United States, it emerged that many of the operators piloting the machines did so in shifts at an Air Force base in the US state of Ohio. This has raised the concern that operators of drone aircraft engage in killing at a much greater psychological distance than traditional soldiering.⁵ Rather than traditional combat, these operators reported to work, controlled the aircraft for a few hours, sometimes discharging weapons, and then commuted home at the end of their shift.⁶

Nonetheless, the United States has remained embroiled in the Afghanistan war for years. From this perspective, one can argue that the guerrilla or "insurgent" still has a lot of fight left in him. What is remarkable, though, is that the United States has maintained forces in Afghanistan for so long

with so little political cost at home. It is on this point that we see the largest impact of shifting the fight from living soldiers to machines. The wear and loss of drone aircraft is invisible to the public compared to the suffering of soldiers. As mechanization replaces soldiers, states that can afford this technology go to war with less political cost.

Besides this deployment of technology, the most advanced nation states have developed all-volunteer armies. The use of such structures greatly reduces the visibility of coercion to the domestic population. Rather than conscripting a broad range of individuals from society for the military, volunteers are largely drawn from particular classes and regions. In the United States, Secretary of Defense Robert Gates expressed concern about this trend in 2010. He noted that for many Americans, the wars in Afghanistan and Iraq were a distant reality, because a smaller number of career soldiers carried the burden of multiple deployments. Gates also commented on the evidence showing that these volunteers tended to come from similar educational and class backgrounds. Finally, Gates noted that the recruitment of volunteers had fallen into such a regional dichotomy that US military bases were now concentrated in the US Southeast, Southwest, and West. Alternatively, the fewest number of installations are in the Northeast of the country.⁷

What is emerging is a military structure that the United States can deploy with less domestic political cost to the American government.⁸ The consequences of this change are profound for the United States and the world. As Secretary Gates noted in his speech, one of the key trends within this troubling change is the increasing compartmentalization of the military from the rest of American society. Many observers, especially abroad, are puzzled by the small amount of political protest in the United States over the war in Iraq. What this point of view fails to see are the changes that have occurred within the US armed forces and American society since the 1970s. The critical difference is that, unlike the past, today's military practically constitutes a separate social class within American society. As an all-volunteer body, with many life long members, deployment of this professional military force does not create domestic political opposition like the 1960s conscript army that was sent to Vietnam.

Instead, the modern American military relies on a core of full-time military personnel who have chosen the service as a career. Many Americans choose the military career path in an effort to move up in society from poorer backgrounds. Studies of military recruitment consistently show that the service's most significant appeal to young people is its educational benefits. Individuals enlisting in the military after high school earn college tuition credits for each year they serve. While feelings of patriotism are also important to military recruitment, studies consistently show that the military's chief attraction is the social mobility it enables. For example, surveys show that high school students with college-educated parents and

higher grades in school are less likely to enlist. However, traditionally poorer ethnic minorities, specifically African Americans and Hispanics, are more likely to enlist than their white peers. Thus, military service often provides a path to college and social advancement for individuals with less affluent origins in American society.⁹

Although this professional, volunteer force is ethnically diverse, it remains concentrated in specific, cohesive communities. This slice of the American population lives on or near military installations across the United States and learns to expect deployment as a possibility. Divisions within this community do exist, such as that between higher-level officers from the prestigious American military academies and lower-ranking soldiers. However, the neighborhoods near military bases across the United States are some of the most racially integrated in the country. This social cohesion sets these communities apart from others across the United States.¹⁰ In surveys of opinion, military personnel drawn from similar backgrounds in American society and with similar career paths show significant attitudinal differences from civilians. From this perspective, US military personnel live in tight-knit communities that are supportive of soldiers and families, but are also disconnected from the average American's daily life.¹¹

On this point, it is noticeable that the major source of resentment toward the wars in Iraq and Afghanistan has been from the National Guard and Reserve members' families. These reservists traditionally support full-time soldiers as needed during emergencies. However, the Iraq conflict has seen many National Guard units deployed for 12 or more months at a time, depending on the unit and its specialization. This group is drawn from a much more inclusive cross section of the citizenry compared to the compartmentalized career soldiers. As a result, deployment of the National Guard has been one of the more politically difficult aspects of the war for both Republican and Democratic presidential administrations.

Further deployments of reserve units would be necessary if the professional army were not also supported by so-called "contract soldiers" serving with US forces in Iraq.¹² Contract soldiers are employees of private American companies under contract with the US Department of Defense. Currently, these contract soldiers are one of the largest contingents of coalition troops in Iraq and are almost equal in size to the British contribution. These mercenary forces perform a broad range of functions that used to be the exclusive responsibility of US troops. The most elastic of these duties, security, allows contract soldiers to fill critical gaps in the overstretched volunteer army. Given this group's monetary motive for being in Iraq, it is not plausible to expect any political pressure from the public over casualties in this group. Indeed, the casualties from the contract forces are largely invisible since the media does not give them the same attention as other battlefield deaths.

Besides these structural changes to the military's composition, improvements in weaponry and battlefield medicine have held American casualties in Iraq

to a minimum. Compared to the Vietnam conflict, fewer American soldiers die on the battlefield. Compared to an even larger number of wars, the recent conflicts in Afghanistan and Iraq show that while soldiers are still grievously wounded, the lethality of those injuries has declined remarkably.¹³ Improvements that cost the United States less lives on the battlefield make the overall likelihood of using force more likely. This tragic paradox stems from the simple political calculation that force is easier to apply the lower its cost in American lives. Thus, fewer casualties increase the likelihood of some lives being lost because all deployments are politically cheaper.

This decline in American military deaths through better battlefield medicine also corresponds to an increased effectiveness on the battlefield. With improvements in military weaponry and technology, fewer soldiers can cover larger areas of occupation. Thus, American military forces can occupy a country the size of Iraq, at least tenuously, with a relatively small force of about 160,000 troops. The result of these two trends is fewer forces deployed and fewer casualties from that smaller force.

Another irony of this situation is that improvements in battlefield medicine and weapons technology that save the life of the common American soldier also increase the odds of collateral damage affecting foreign civilians. For example, reliance on cruise missiles and air strikes reduces American military deaths, but this is offset by the likelihood of injuring innocent bystanders. Estimates of Iraqi civilian deaths range in the tens of thousands. Yet, large numbers of Iraqi civilian deaths have so far failed to make a strong impression on the American public. Obviously, the moral logic of distinguishing between the two groups is tragically nearsighted. Even by conservative estimates, the total number of Iraqi civilian deaths since the American-led invasion began is far beyond the number of US military casualties. Besides the immediate suffering these deaths represent for the people of Iraq, this violence has triggered an exodus of the country's middle class and best educated. Thus, Iraq will continue to feel the consequences of this population loss for decades to come.

Nonetheless, American politicians know that what is significant in domestic politics are American military casualties, not the innocents caught in the fray a world away from their constituents. So, as the political costs for using military force come down through fewer battlefield deaths and the deployment of smaller, compartmentalized forces, it is easier for this and future American administrations to use force.

Further technological developments are likely to continue this political trend. For example, recent reports in the news media and scholarly sources reveal that the US Department of Defense is investing heavily in robotics research.¹⁴ This priority is supported by an enthusiastic US Congress, which has consistently increased funding in this area over the last few years. The military already uses robots to help with bomb disposal and other dangerous tasks. Most impressive to date has been the increased use of robotic aircraft, drones, for aerial reconnaissance and remotely controlled air strikes.

Besides robotics, reports of even more bizarre military research, with far-reaching ethical consequences and questions, have appeared in the American and British media. The research arm of the Department of Defense, the Defense Advanced Research Projects Agency (DARPA), has been experimenting with the remote control of animals. Apparently, one of their largest experiments has involved using sharks for naval reconnaissance. The sharks have electronics implanted in them allowing an operator to steer them toward a chosen target. DARPA has pioneered this line of research because using a living organism, like a shark, saves much time and cost over developing a machine to do the same task (i.e. swim like a shark). The research is attempting to ascertain the feasibility of using sharks and other modified animals for dangerous reconnaissance missions.¹⁵ Similarly, a more mundane but equally bizarre area of research is the possible use of smaller animals such as insects for both spying and small amounts of electrical power generation.¹⁶

The instrumental logic driving these developments in technology and capability raises a fundamental question for a democratic state. If robots, machines, and modified animals make up an increasingly significant element of US fighting forces, then what will happen to the politics of military action?

One obvious point is that the use of machines and other substitutes for human soldiers reduces the political pressure on policy makers. The public's tolerance for casualties is an important calculation when a democracy goes to war. With the increased use of machines, this political pressure can be reduced. Therefore, current trends within the American military establishment may make it much easier for politicians to support future wars. This possibility represents a challenge to long-held assumptions about democracies and war.

In political philosophy, theorists have long assumed that one of the responsibilities of democratic citizens is defense of the state. Modern political scientists, who have been concerned with the public's lack of interest in foreign policy, knew that voters would at least pay attention on issues of war and peace. This traditional assumption is often cited as an important advantage of democracy. Many argue that democratic governments are more pacific since citizen armies will only support wars that are vital for self-defense. Yet, this traditional assumption, already debatable, is made even less plausible by career, volunteer armies and technologies that reduce the human cost to the home front.

Coercion and the market

The state's concealment of coercion is also aided by popular belief in an independent "free" market. For example, in the United States, arguably a country with the greatest freedom of speech protections available, we see

the market aiding state surveillance. It is particularly interesting to consider the case of US telecommunications companies, an area of the economy that is considered world leading. In the fall of 2010, it emerged that private companies were having difficulty quickly responding to government requests for wiretapping surveillance.¹⁷ All of the firms involved quickly agreed to make necessary changes so that wiretaps could be easily “switched on” when requested. Implementation of this feature required close technical collaboration. In fact, officials explained to *The New York Times* that telecommunications companies were never fined for failing to comply with wiretap requests, because this would be disruptive to the close collaboration between their engineers and government technicians. Thus, quiet state action hides behind the myth that free markets, with many private companies providing services, act as a bulwark to state encroachment.

A well-publicized dispute between the Canadian firm RIM and the governments of India and the United Arab Emirates also shows that private companies are rarely bulwarks against the state. In this case, the two governments demanded that RIM turnover encryption “keys” that would allow their security agencies to monitor communications. As the dispute was resolved, by RIM turning over this information to the two states, it emerged that what these governments wanted was the same access that RIM had already provided to governments like the United States and most of Western Europe.¹⁸

In a similar case following rioting in London in 2011, private companies met with British officials to discuss allowing police forces greater access to various social media. The looters and rioters (in some cases) appeared to organize events and share information through social networking services like Twitter. This voluntary meeting with representatives from Facebook, Twitter, and RIM appeared to be a retreat by the government from earlier calls for legislation in this area. However, the paradox of voluntary cooperation from these companies, conducted in a closed-door meeting, is that the government’s surveillance demands have now been met in a less transparent way than legislation would have demanded.¹⁹ This behind-the-scenes agreement with private enterprise also allowed the British government to avoid unpleasant comparisons to authoritarian regimes, like China and Iran, which have also sought such controls. Thus, rather than serving as a bulwark against state intrusiveness, we often find private enterprise enabling the state.

Surveillance links between the state and free-market enterprises are not especially new. In the United States, private industry has co-opted the individual social security number because it is the most reliable form of identification. Now individuals routinely give this number to private companies for access to services and lines of credit. Arguably, this activity has reduced privacy in the United States faster than any government action. A stolen social security number has devastating consequences for individuals.

The media is filled with stories of individuals who suffer this loss spending years “trying to get their life back.”

A similar pattern is emerging in Britain with national identity cards. Although there are objections being raised by traditional civil liberties groups to the introduction of identity cards, another objection is that many private companies will piggyback onto the larger official database.²⁰ The assumption is that various consumer services will begin to use this form of identification. Hence, consumer demand for increasingly sophisticated services, ones that require a company to firmly establish with whom they are dealing, will make this identity scheme increasingly pervasive. Indeed, the British government has speculated that the scheme's costs may be partially covered by charging private financial companies for access to the registry. It is easy to foresee how this new registry will be used to tie individuals with good credit to financing for various status objects and increasingly more intricate, at a distance, services. This will drive the expansion of the original government project to more and more corners of daily life.

The contemporary state's outsourcing of coercion is even more surprising. The best example in this case is the reliance of the United States on private military contractors to provide manpower in Iraq and Afghanistan. However, the creative fiction of hiring “independent contractors” enables the US military to avoid the public scrutiny, and political fallout, of conscription. In the United States, this has become a standard operating procedure for the country's armed forces. Along with the enlisted volunteers, various contractors are hired in roles ranging from logistical support to combat.²¹ The latter role typically occurs under the euphemism of “security” work. Overall, there has been a pervasive privatization of armed forces.

Other states have also increasingly outsourced coercion. In Australia, the government has privatized the detention of illegal immigrants. This privatization has come with a long list of abuses and failures by the private companies involved.²² A similar trend toward privatization of prisons can be seen in the United States. In a recent case in Florida, a state judge blocked the looming privatization of twenty-nine state prisons. This instance of the courts blocking privatization was interesting because the judge complained that state legislators hid the legislation for this action within the “hidden recesses” of a budget bill.²³ Thus, market obfuscation can empower the state. Yet, this obfuscation undermines the argument, heard across the spectrum of political rhetoric and academic discourse, that the free market helps to check the power of the state.

The myth of the free market provides another ideological analogue in the United States. The right to bear arms is often defended on the political right as an ultimate check against tyranny. Indeed, many argue that the widespread legal ownership of firearms is proof of the freedom embodied in the American republic. Of course, this ideological position aids the concealment of true coercion. It is absurd to think that the light weapons citizens may

legally own is a counterweight to the vast instruments of coercion possessed by modern, developed states. In the United States, citizens, providing they follow the rules, may legally own semiautomatic assault rifles. However, these are only a threat to other citizens. The contemporary state found in the United States possesses an arsenal that is a galaxy away from that which even the wealthiest and most unscrupulous individual could plausibly obtain. Thus, the argument that the right to bear arms is an ultimate check on state power serves the ideology of concealing the state. This myth obscures the truly invincible nature of contemporary state power.

Privatization of coercion and surveillance increases the concealment of the state as accountability is a step removed from government. We can consider the extraordinary case that emerged in the UK during the winter of 2011. The case against a group of so-called environmental extremists, accused of planning to occupy a privately run power plant, collapsed when it emerged that an undercover police spy had been embedded in various environmental groups for seven years. In court, the role of this individual became a central question as it began to look as though he were an agent provocateur and had clearly breached ethical guidelines.

Yet, even more amazing was the discovery of the agent's organization in Britain. The National Public Order Intelligence Unit is neither a branch of Scotland Yard nor the London Metropolitan Police. Instead, its functions were privatized to a limited company run by the Association of Chief Police Officers (ACPO).²⁴ This organization, which operates as a private limited company, had become controversial in 2009 when it emerged that it was under government contract to produce lists of "domestic extremists" for use by the nation's police forces. After receiving bad publicity for putting clearly innocuous, peaceful but perhaps politically active citizens on this list (for which there was no mechanism of appeal and apparently no method to obtain for public scrutiny), the contract was revoked. In 2011, following this further scandal involving ACPO, the government promised a thorough review of the contract.

This is an example of the state concealing itself behind privatization. Once the scandal broke in Britain's national press, the state announced an investigation into the bad behavior of this nongovernmental contractor. Of course, it is still the taxpayer's money being used to spy on citizens. But privatization, justified for the sake of efficiency, makes this activity less accountable to the public and provides a stalking horse for the state. Bad behavior, or shall we say, behavior that would embarrass a democratic state with rule of law, is subcontracted in the name of efficiency. However, if this unpleasant surveillance operation then comes to light, the state can claim ignorance of the methods used, and promise a review. The punishment will obviously be to revoke the lucrative contract issued to the agency by the state.

An even deeper question of accountability emerges from a trend in the United States. In the face of continuing budget cuts, as local and state

governments refuse to increase taxes or fees, many police departments have resorted to unpaid volunteers.²⁵ Although unarmed, these unpaid volunteers are being used to make up for shortfalls in police personnel in a variety of roles. The goal of such programs is to free regular police to handle the most dangerous crimes, while leaving volunteers to follow up on more routine investigatory procedures. However, one must wonder at the unpaid volunteers' motivations. There is also an unresolved question of oversight of such volunteers. If a police officer is found in violation of rules in the field, then he risks a formal review process and sanctions. Unless their behavior is found criminally corrupt, it is unclear what sanctions could be applied to unpaid volunteers other than asking them to stop donating their time.

Surveillance and the market

Arguably, the best example of the market obfuscating the role of the state is in the domain of surveillance. A dynamic of particular importance in developed countries is that products and services, which incorporate surveillance technologies, have become status objects. Increasingly, it is routine for consumers to sign away access to private data in return for "free" communications services. The most sought-after smart phones and tablet computers come now with the convenient features made possible by constant GPS tracking technology. Yet, most scholarly treatments of privacy compare the right to privacy to large policy issues that raise questions of community welfare. The comparison of trade-offs between privacy and security is most common. However, there are other examples too like the trade-offs between public health and the privacy of medical records.²⁶

Although an important dimension of the problem, these discussions of privacy can also obscure some of the social dynamics surrounding surveillance technologies. For example, some scholars are concerned that the consistent framing of the debate between surveillance and privacy as one of trade-offs obscures the political issues surrounding the deployment of surveillance technology.²⁷ The risk is that that when we look at surveillance this way, we lose sight of which economic interests, such as specific firms, benefit from and thus lobby government for additional surveillance.

Therefore, to gain some perspective on this other dynamic connected to surveillance, we should look at privacy differently. We should think about surveillance and privacy as a question of maintaining a collective good. This perspective is harder to find in treatments of the subject.²⁸ Analyzing the threat to privacy as a problem of collective action, similar to that of environmental degradation, highlights the feedback between politics and cultural forces that is missing from current discussions of privacy rights and trade-offs.

For example, Kieran O'Hara has argued that the growing social practice of publishing private photos and information on Facebook and other social networking sites could lead to changes in expectation within courts of law over reasonable expectations of privacy.²⁹ Thus, in a broad look at the growing loss of privacy due to consumer technologies, O'Hara has called privacy a public, rather than an exclusively private, good.³⁰

At first glance, discussing privacy as a collective good may appear counterintuitive. A plausible concern is that if we move away from a rights idea of privacy, then we may risk devaluing the overall status of privacy. However, the nature of privacy as a right, and theorizing about its complexity, is a common discussion in political and social theory. For example, in a classic article on the topic, Judith Jarvis Thomson argued that privacy, while important to individual well-being, is philosophically derived from other first principle rights (such as individual liberty, freedom of association, or the right of controlling one's body).³¹ Thomson argues that in many cases, what appears to be an argument about privacy can, on closer analysis, be reconstructed as an argument about property rights including ownership of our bodies and nonpublic space.

On the other hand, Jeffrey H. Reiman has objected to Thomson's thesis arguing that it risks whittling away at privacy through smaller arguments about where ownership and property rights end. Instead, Reiman introduces an argument containing a perspective closer to that of privacy as a collective good. He argues that:

Privacy is a social practice. It involves a complex of behaviors that stretches from refraining from asking questions about what is none of one's business to refraining from looking into open windows one passes on the street, from refraining from entering a closed door without knocking to refraining from knocking down a locked door without a warrant.³²

Thus, Reiman calls privacy a "complex social ritual" that often involves close contextual analysis when we are making judgments about it. Why do we engage in it? Because Reiman argues it is what confirms to us our individuality.

This example from the field of political theory shows that there is room within discussions of privacy for a collective perspective. The advantage of looking at privacy as a collective good is that an individual's access to privacy can be severely eroded by the choices of others in the marketplace. Thus, claims that the state is not eroding privacy are disingenuous on this point. The state is allowing privacy to disappear by allowing this activity to exist in the "free market."

There are many examples of consumer behavior undermining public goods. For example, we are all aware of the problem of environmental damage

due to consumer choices. The best contemporary examples are consumers choosing inefficient, gas-guzzling SUVs or the growing difficulty of handling the waste generated by our disposable products. In a pattern similar to the aforementioned, our short-term consumer choices of convenience and status are outweighing the long-term collective good of privacy. Just as the status acquired from our large inefficient automobiles wrecks the environment, so too is our rush to be early adopters of new consumer gadgets, always connected to our ever-growing global communications network, which in turn erodes privacy. Thus, on the surface, the loss of privacy due to new consumer technologies seems similar to other collective action problems such as the environment.

In both cases, consumer choices focused on short-term results eventually lead to larger, pernicious changes. However, one key difference is that our environmental resources and thresholds are fixed in a way that privacy is not. We can imagine privacy as a resource, but one that is much more flexible and subject to altering perceptions over time. A casual look at the breadth of available historical, philosophical, and legal scholarship on the topic makes this clear.³³ Thus, attempts to define a threshold of damage or proof of erosion are much more difficult here than with environmental concerns.

Similarly, identifying state neglect in this area becomes more difficult than in the environmental case. Many commentators devote significant attention to the risks of state surveillance and the subsequent risk of creating “Big Brother.” What is much more difficult to criticize is the state’s role in market activity that erodes privacy. For example, many individuals are aware that choosing a large polluting automobile has a negative environmental impact. However, it is much more difficult to show that consumer demands (including individual subscriptions) for services that track one’s mobile phone position reduce everyone’s privacy. The common belief is that it is up to the individual to weigh the trade-offs between the benefits of new services and ceding some level of privacy. As a consequence, the state neglects to protect the commons, including our collective level of privacy.

Furthermore, in the case of environmental damage due to large cars and oversized homes in the United States, there are less harmful options available such as smaller, more fuel-efficient cars and homes. In the case of privacy and surveillance technology, there is no small car option. Instead, the technology being sold inherently reduces this good through the service it provides. The only alternative to this service and convenience is to do without. Thus a more parallel example from environmental concerns would be the waste generated by bottled water in recent years. In the developed world, clean tap water is widely available. So the product of bottled water is marketed as one of convenience and status (most bottled waters claim to be of better taste, health, unique sources, etc.). The best alternative to bottled water’s long-term environmental hazards is to avoid the product all together.

Many surveillance technologies are now tied in with required social practices or, at least, social expectations. For example, mobile phones are now not only a convenience but a “necessity.” The argument is that possession of a cell phone provides one with a safety net in daily life. In response to consumer perceptions that some elderly users were uncomfortable with the technology, and that many children were not prepared for an open link to the outside world, the industry has responded with a simplified phone. In addition to being very simple to operate, this class of phone will only dial out to numbers pre-programmed into it. It will also only receive calls from pre-programmed numbers.³⁴ The fact that our culture adjusts to these changes is apparent to anyone who has recently attempted to find the once-common, now close to extinction, public pay phone.

Another familiar example is the use of credit cards for air travel, car rentals, and hotel rooms. Initially, individuals used credit cards for their convenience when traveling. Yet, anyone attempting to pay cash for these services will gain first hand experience of the pressure to adopt these new “standards.” What was once a convenience is now considered the only legitimate method of obtaining these services. Attempts to opt out and use cash for travel arrangements are likely to cause suspicion and perhaps even trigger surveillance. For example, anyone attempting to purchase an airline ticket in the United States or EU using cash is investigated by state security services.

In addition, the security and convenience of widely accepted credit cards has led us to accepting the constant monitoring of our transactions. Thus, our consumer demands for safety have led most lenders to develop constant scrutiny of our financial activity for suspicious activity. For example, a sudden trip overseas or even using your card in a new neighborhood can trigger a red flag. Anyone who has in recent years broken their usual profile or pattern of behavior is familiar with a sudden phone call from their credit card’s security office or even the cancellation of their credit card. While this “service” provided by various financial institutions can be marketed as meeting a demand from customers for security, its usefulness for state surveillance is intrinsic.

Here again, the comparison to environmental concerns and consumer choices is highly relevant. Arguably, the best inroads against wasteful environmental choices have been the development of marketable alternatives. For example, marketing has created a certain status associated with owning a hybrid automobile rather than a large SUV, or the shift in more exclusive restaurants back to tap water rather than polluting, branded bottled waters.

In the case of surveillance requirements and technologies within the market, we do not find such options. Instead, the only way we can access many daily services is through participation in these surveillance practices. As two justices of the US Supreme Court recently noted, the idea of individuals giving up privacy voluntarily (by turning over information to a third party

with disclosure) is increasingly questionable.³⁵ The justices pointed out that many consumers instead are likely to have a reasonable expectation of privacy when using services like cell phones (despite the phone company having a list of all of the numbers they call and the user's physical location) or toll payment devices in their car (which record the date and time of one's travel).

The state ultimately benefits from the collection of this vast amount of information. Although it can hide behind the argument that it is individual choice made in a free market full of data, realistically, many of us have little choice but to participate. If we wish to travel, then we must surrender personal details. If we wish to communicate using recent technologies, then we must surrender more personal details. When the state now focuses on one of us, it can (in democratic systems) take out a warrant to obtain this treasure trove from "private" companies. Thus, the idea of an independent market enables the state to conceal its growing ability to maintain surveillance over everyone in ways never possible before.

The nonlethal future of coercion

What is the future of concealing coercion? Currently, a number of governments are developing nonlethal weapons. The stated goal of developing such weapons is to provide police and military forces with a more humane use-of-force option. As one observer has pointed out, the US military began serious research into such devices after its intervention into Somalia in the 1990s.³⁶ Since that time research and discussion of the usefulness of such devices has continued in the US military establishment and subsequently spread internationally.

This expansion of interest has spawned a growing policy and strategy literature about nonlethal technologies. The majority of this literature focuses on two main areas. One is the possibility nonlethal options present to first-world military forces when conducting peacekeeping and humanitarian missions or interventions. Another is growing commentary over the criteria and testing necessary to deem a weapon non- or less than lethal.³⁷

In addition to more practical and immediate questions surrounding the ethical use of such devices, the development of non-lethal force technologies also challenges many traditional assumptions of political theory. One of these core assumptions is the relationship between violence and power. Consider Hannah Arendt's classic distinction between power and violence:

one of the most obvious distinctions between power and violence is that power always stands in need of numbers, whereas violence can manage without them because it relies on instruments.... The extreme form of power is all against one, the extreme form of violence is one against all. And this latter is never possible without instruments.³⁸

Yet, we are seeing today radical technological change in the “instruments” that states can now deploy. How will these new technological instruments change this dynamic of power and violence?

Consider the great upheavals of the late 1980s in Eastern Europe. In the case of East Germany and Czechoslovakia, hundreds of thousands demonstrated in the streets for change. The regimes had only two choices. They could use deadly force and disperse these protests by raking the streets with gunfire and stay in power, but with nothing left except coercion. If they did not shoot, it would be a signal of the regime’s abdication. China in 1989 was the exception that proved the rule; there the authorities faced throngs but were willing to shoot and remain in power. However, even in that case we see that the party had to adjust its line in the wake of this ultimatum. The party survives, but with economic concessions that have fueled rapid social change.

What if these regimes had possessed the technology to break up 100,000 demonstrators without using lethal force? What difference would this technology have made back in 1989 when the bankrupt communist regimes of Eastern Europe were told by thousands of people that their time had passed? Could such instruments provide an escape for the state from the logic of power and violence that Arendt describes? One of the unexplored implications of nonlethal force is that it allows contemporary states to wriggle out of this dilemma. Thousands or tens of thousands of us may mass in future, but the state can force us to disperse in a more humane way, removing this moral ultimatum.

In 2010, there was a curious standoff in Stuttgart, Germany, between a broad group of residents and the federal government over plans for redevelopment. The issue was over plans to demolish the city’s 100-year-old train station to make way for a new high-speed rail project. The plan included clearing hundreds of trees from a nearby park much beloved by residents. The local population argued that they never fully understood what the redevelopment involved until the demolition had begun. They resorted to direct demonstrations to stop it.

The resort to direct action was necessary, according to resident leaders, because they were told the plans and development were too far along to stop. Once again, the state argued that its hands were tied. The standoff took a critical turn in the last week of September 2010. Riot police using water cannon ultimately broke up demonstrators attempting to protect the trees. The pictures of wounded demonstrators embarrassed the national government. These pictures triggered a march of 25,000 Stuttgart residents whose cry was “shame” on the government for such heavy-handed tactics.³⁹ This led to the chancellor herself intervening and calling for a halt to the project. Wounding citizens of the Federal Republic for protecting trees was clearly a step too far in support of train station redevelopment.

Similarly, the attempt by the French government to increase the minimum retirement age from 60 to 62 was met with massive protests in the fall of

2010. A growing strike led to an increase in transportation disruptions, and that in turn began to trigger shortages in fuel, food, and other goods in France. By October 19, police estimates had close to half a million French citizens demonstrating throughout the country.⁴⁰ The police acted with great restraint in the face of this resistance. Indeed, could the state justify using force against demonstrators over the issue of raising the retirement age by two years? Is it defensible to employ force against the citizenry in the name of pension reforms?

In the future though, the use of coercion by the police can be concealed in such situations. Of course, we have many historical examples of new technologies leading to less-than-benevolent outcomes. In her work referred earlier, Arendt emphasizes that violence requires instruments and how these instruments are applied is up to the human imagination. From this perspective, one could argue that the new nonlethal technologies are quantitative improvements on older crowd-control technologies like tear gas and water cannons.

In contrast, the technologies now being developed by a number of nation states not only are quantitative improvements but also signal a qualitative change. This qualitative change is linked to another core assumption of political theory that these technologies challenge: the proportionality of force.

As Michael Walzer discusses in his classic study of the morality of war, a key idea of just applications of force is that coercion should be proportionate to the threat. In the case of deterrence, just use of force would suggest that enough coercion is applied to deter the act.⁴¹ From the perspective of military and police research, there is an argument that nonlethal technologies expand the spectrum of responses available to soldiers and police so that a more proportionate level of force can be applied to a situation. This is especially the case in situations of asymmetric conflict where the military faces combatants hidden among civilians.⁴² On the other hand, some observers have commented on the challenge these technologies present to traditional theories of just war.⁴³ This challenge includes the fact that by disrupting traditional ideas of proportionality and discrimination on the battlefield, nonlethal weapons may lead to more civilians being affected by a conflict.⁴⁴

There is a pressing domestic political concern in states developing a nonlethal capacity. Here, we need to consider the purpose of these new machines. In the United States, the Active Denial System (ADS) technology is a microwave that creates a burning sensation at a considerable distance. In Israel, the technology behind the “skunk” is an odor foul enough to trigger physical flight. These devices cause an individual otherwise committed to holding his or her ground to flee. Is this the technology needed to break up a riot or looting? Are individuals in a riot committed to standing and holding ground in the face of police force and current crowd-control methods?

Instead, the new nonlethal technologies currently under development are instruments capable of forcing even the most committed individuals to break and run due to uncontrollable physical reactions. These technologies are designed beyond what is needed to break up an atomistic, rioting crowd. Instead, they hold the possibility of dispersing crowds pulled together because of higher ideological causes or political grievances. Rather than riot control, nonlethal force on this scale represents a new instrument of social control. It provides the state with a way to break up mass crowds that are drawn together for a purpose and highly motivated to stand their ground. On this point, there are an increasing number of alarmist newspaper and more popular journalistic articles warning about the future limits of protest and civil disobedience.

Possible judgments about the proportionality of this coercion are disrupted because nonlethal technologies of social control can conceal the use of coercion. What lasting effects are there from the US microwave device, or Israel's "skunk"? None, and that is precisely the point of these devices. There will be no visible body count on the streets or casualties showing up in hospital. Arguably, one can say that these technologies do not entirely obscure the deployment of coercion. People will still know that the crowd-control machines were deployed. Yet, how are we to judge the proportionality of this much less visible form of coercion? To what extent can we argue that a disproportionate amount of coercion has been used when there is no obvious physical harm left behind?

If these devices are being developed for larger-scale social control, then the evaluation of harm and proportionality must turn to the intent of the state deploying this coercion and the individuals being controlled. Rappert observes in his study of nonlethal weapons that the deployment of such technology by police against civilians becomes highly contextual:

Here, questions about the legitimacy of force tie in with assumptions about the identity of those taking part in "public order" events and about their motivations.⁴⁵

Thus, in the absence of obvious physical harm we will need to develop a different rubric for evaluating the proportionality of nonlethal coercion that includes some measure of intent.

If these concerns seem overblown then perhaps an example of this logic from another theater is in order. On a smaller social scale, we can see the moral implication of nonlethal force on display in the use of conducted energy devices (CEDs). The best-known manufacturer of such devices is Taser International. In fact the brand is so well known it has entered popular speech with a verb "tasing." The website for Taser International provides links to various publications, both scientific and legal, in an effort to show that the products are indeed nonlethal and are an alternative to firearms.

The widespread availability of this device to police departments has allowed police a more acceptable first use of force option. In the past when confronted with the choice of using deadly force or more traditional methods of physical coercion, police were more likely to err on the side of restraint. Now, the quick resort to “tasing” individuals and the frequency with which these devices are being used is documented by organizations like Amnesty International.⁴⁶

There is also growing commentary in the UK about the resulting change to policing there. Famous for not carrying deadly weapons, the recent decision to arm thousands of police in the UK with tasers has caused some observers to speculate about whether this signifies a more profound shift in social relations between police and public. Thus, with the nonlethal technology of tasers, we already see that coercion is more likely to be used and that it is difficult to gauge the proportionality of this coercion.

Concealing invincibility

The future refinement of technologies like nonlethal force and the continued privatization of police and armed forces are improving the state’s ability to conceal its use of coercion. As democratic accountability declines and the might of the state becomes practically invincible, the ideological pressure for concealing the state grows. The state faces similar pressure in other areas of policy, but none touches on the state’s core function of maintaining sovereignty like coercion. At the same time, justifying the state’s monopoly on coercion has always been the most challenging area of theories of political legitimacy. As the coercive power of the state grows exponentially, this tension has driven the state to the ideological solution of concealment.

Arguably, there is an even deeper reason for the state’s concealment. Sovereignty is a goal that can never truly be satisfied. In her broad discussion about war and violence, Butler describes the impossibility of the “sovereign subject.”⁴⁷ She laments that violence is “justified” or “legitimated”

even though its primary purpose is to secure an impossible effect of mastery, inviolability, and impermeability through destructive means.⁴⁸

In other words, the goal of sovereignty, whether for an individual subject or for a nation state, is never ending. To remain the unmoved mover, capable of guarantees and contracts that recede into the future, the state must constantly expand and refine its efforts to remain in control.

Wendt and Duvall have gone to extraordinary lengths in an analysis of sovereignty to think about its limits.⁴⁹ They argue that for the contemporary state,

power flows primarily from the deployment of specialized knowledges for the regularization of populations, rather than from the ability to kill. But when such regimes of governmentality are threatened, the traditional face of the state, its sovereign power, comes to the fore,⁵⁰

Many of us enable this ideological obfuscation through our own behavior. Thinking about the vast power wielded by the contemporary state is unsettling.

In the developed world many of us have grown used to relying on passwords to unlock our computer files, credit card monitoring to protect us from identity theft, and home surveillance systems to guard our property. However, there is an important difference beneath our day-to-day experiences of security. Our computer passwords, identity theft insurance, and home security systems are all efforts to protect our private property and us, as individuals, from other citizens. In contrast, the state has the tools and the authority to do whatever it likes to us. None of the tools available to the private citizen can defeat the powerful instruments and unlimited resources of the state. Events that reveal this stark difference and expose the older sovereign face of the state, with its link to coercion and violence, are unsettling.

Yet, how could any of us survive without this protection? Our longing for the security of our property and ourselves logically leads us to shelter beneath the state. The risks posed by other states also lead us to form and maintain the military power of our own. This paradoxical relationship is clearly described by Butler,

To be protected from violence by the nation state is to be exposed to the violence wielded by the nation state, so to rely on the nation state for protection from violence is precisely to exchange one potential violence for another.⁵¹

In many ways, the iron-clad logic of Hobbes' *Leviathan* is still with us. We surrender ourselves to the state to escape from all the risks we face without it.

Another unpleasant fact is that individuals can benefit from immediate increases in "governmentality." This somewhat loose example of academic jargon refers to the increase in the ability of the state to govern society. Thus, as the infrastructure of the state improves, it can dramatically increase or reinforce the state's ability to regulate society. In this sense, the vast security and surveillance of the state enables many things to happen.

For example, consider the project in India to register its entire population into a new identity database. Many privacy advocates fear the long-term consequences of registering every individual's fingerprints and retina pattern with the government. At the same time, many anti-poverty organizations have long sought a new method of providing the poor in India with a

reliable form of identification.⁵² With this reliable identification, poorer Indians, often in rural locations, will be able to access government services and obtain credit that was impossible before. The Indian government also expects that it will allow for greater mobility within the country, enabling workers to migrate away from home villages (and the local government registry there), without losing access to government services. Thus, the Leviathan state does in some ways empower individuals within its borders. In India, a piece of identification recognized anywhere opens up many new possibilities.

Yet, there is an important difference between our contemporary Leviathans and Hobbes'. In Hobbes' world, there was still the idea that the individual remained free wherever the law is silent. Hobbes could never imagine the size and comprehensiveness of modern governments. The reach of contemporary economic regulation and the depth of surveillance that citizens tolerate (from the "private sector" and the state) are obviously beyond the scope of what any observer could imagine from even a few decades ago, much less Hobbes' time. Explaining why any entity should have this absolute power becomes more difficult as that power becomes invincible. Thus, our contemporary ideological turn is to attempt to conceal the state even here, in its traditional domain of sovereignty and coercion.

The engines of oppression available to the contemporary state have advanced quantitatively to the point that a qualitative change has occurred. The unsettling invincibility of developed states' arsenals and surveillance technologies are a challenge to traditional methods of legitimating state sovereignty. By concealing these facts behind the fiction of an autonomous market and the myth of individual choice (and possible individual resistance), we continue to enjoy the shelter of state protection while denying this disturbing trend.

Returning to an earlier theme of this chapter, there have been other periods in history where a huge gulf existed between the military capabilities of the state and the individual. As discussed earlier, the medieval period saw an overwhelming difference between a peasantry and mounted knights. Despite periodic bursts of violence in the countryside and more organized uprisings, the peasantry was no match for the coercive powers of the state. We too live in an age where the state's military capabilities have qualitatively leaped beyond the plausible opposition of society. This raises an interesting question, are we similar in any other ways to the peasants of the past?

Notes

- 1 Of course this is a reference to Max Weber's famous definition of the state.
 "A compulsory political organization with continuous operations (*politischer Anstaltsbetrieb*) will be called a 'state' insofar as its administrative staff

successfully upholds the claim to the *monopoly* of the *legitimate* use of physical force in the enforcement of its order.” Max Weber, *Economy and Society*, eds. Guenther Roth and Claus Wittich (Berkeley, CA: University of California Press, 1978), p. 54.

- 2 For a concise overview, see Michael Mann, *The Sources of Social Power: A History of Power from the Beginning to AD 1760* (Cambridge: Cambridge University Press, 1986), pp. 391–4.
- 3 Although these peasant uprisings have often been commented on by more radical theorists, and sometimes forced to fit Marxist class analysis, the millenarian element and religious commitment of those involved deserves more attention than it often receives. For a good discussion of this point, see Alberto Toscano, *Fanaticism: On the Uses of an Idea* (New York: Verso Press, 2010), pp. 68–92.
- 4 For a wide-ranging discussion, see Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977).
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- 6 Mark Mazzetti, “The Drone Zone,” *The New York Times Sunday Magazine*, July 8, 2012, p. MM32.
- 7 Speech by Secretary Robert Gates at Duke University, September 29, 2010. Available at: <http://www.defense.gov/transcripts/transcript.aspx?transcriptid=4691>
- 8 See my earlier discussion in Jason Royce Lindsey, “America and the New Dynamics of War,” *Peace Review*, vol. 19, no. 2, April 2007, pp. 255–60.
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- 15 See Susan Brown, “Stealth Sharks to Patrol the High Seas,” *The New Scientist*, no. 2541, March 1, 2006, p. 30; and satirically, Tom Engelhardt,

- “Shark and Awe,” *Salon*, March 10, 2006. Available at: <http://www.salon.com/opinion/feature/2006/03/10/sharks/> Nonetheless, this odd line of research is derived from serious science. See, for example, Shaohua Xua, Sanjiv K. Talwar, Emerson S. Hawley, Lei Li, John K. Chapin, “A Multi-Channel Telemetry System for Brain Microstimulation in Freely Roaming Animals,” *Journal of Neuroscience Methods*, vol. 133, nos. 1–2, February 2004, pp. 57–63.
- 16 James Gorman, “The Snails of War,” *The New York Times*, March 20, 2012. Available at: http://www.nytimes.com/2012/03/21/science/the-snails-of-war-and-other-robotics-experiments.html?_r=1
 - 17 For a good press description of the issue, see Charlie Savage, “Officials Push to Bolster Law on Wiretapping,” *The New York Times*, October 18, 2010, p. A1. Also, Charlie Savage, “US Tries to Make It Easier to Wiretap the Internet,” *The New York Times*, September 27, 2010, p. A1.
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 - 24 See: George Monibot, “Eco-terrorism: the Non-Existent Threat We Spend Millions Policing,” *The Guardian*, January 18, 2011, p. 27. Available at: <http://www.guardian.co.uk/uk/2009/oct/25/police-domestic-extremists-database>, and www.dailymail.co.uk/debate/article-1347832/Whos-policing-undercover-police.html
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