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Surveillance and South Africa

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Book Review: Jane Duncan (2018), *Stopping the Spies: Constructing and Resisting the Surveillance State in South Africa*, Wits University Press (312 pages)

When Edward Snowden leaked a trove of top-secret NSA documents in 2013 he gave the world unprecedented insight into the expansive, coordinated mass surveillance conducted by the Five Eyes network (US, UK, Canada, Australia and New Zealand). International outrage over the 'hoovering up' of the communications data of citizens, political allies and other non-threatening entities sparked widespread inquiries into the implications these disclosures had for the rest of the world. In this milieu Jane Duncan assesses the relevance of the Snowden revelations to her home country of South Africa in her latest book, *Stopping the Spies* (2018, Wits University Press). Admitting that the nation hardly features as a Five Eyes site of interest, the book considers the extent to which post-apartheid South Africa has become a surveillance society governed by a surveillance state.

Structurally, the book does more than merely position South Africa as a case study within the global political economy of surveillance. Embodying critical political economy's principle of socio-political praxis, it strategically places activism at the forefront, prioritizing a review of the struggles, strategies and the (albeit limited) successes advocacy and activist organizations have had in pushing back against state overreach. The book effectively advances the view that resistance is not as futile as most dystopian narratives around state surveillance suggest. Whereas most contemporary surveillance studies conclude with the rhetorical question of 'What can be done?' Duncan inversely starts with a list of practical responses that have already seen some success – however imperfect or limited that success might be in the long term. She also proposes effective activist strategies and tactics as a means of encouraging readers to take up a platform of resistance.

The book oscillates between general critiques of state surveillance and those specific to the South African context. While Duncan is one of few scholars to give voice to surveillance in the global south, the theoretical perspectives from which she draws are largely those developed around a North American/European framework. What geopolitical differences might underlie competing theories or political economies of surveillance are hardly discussed, despite being an important theme within much existing research. Chapter One, for instance, lays out the primary ways surveillance and privacy have been defined, theorized and discussed within surveillance studies literature from a largely Northern, Euro-centric view. Nonetheless, it provides a useful introductory overview for any reader interested in a critical scholarly approach to surveillance and privacy issues. Perhaps too much theoretical emphasis is placed upon Michel Foucault's 'panopticism' in her bifurcation of contemporary surveillance theories into 'panoptic' versus 'post-panoptic' formulations.

From there, Duncan discusses the common tendency in surveillance studies to hinge surveillance critiques on a Western liberal-democratic conceptualization that frames privacy as an individual human right rather than a collective, social good. After unpacking what a social view of privacy might actually look like (something few surveillance scholars tend to do after claiming its importance), Duncan also offers its limitations. In doing so, she suggests that the tendency for critical scholars (myself included) to repeatedly call for a social definition of privacy as an end point is short-sighted and prone to threats of depoliticization that activists must then work additionally hard to counter. A social view of privacy thus underpins the book's political and practical objectives.

Chapter Two continues with a general overview of the political economy of surveillance unspecific to South Africa or the larger context of the Global South. Instead, the chapter maps some of the political economic relationships responsible for the expansion and universalization of surveillance globally. This is followed by a fairly dense summary of the uphill battles levied worldwide against concentrated surveillance powers by NGOs and other privacy advocates. Over the first few pages a depressing context is set that explains, amongst other arrangements, how military arms companies have turned towards surveillance production. This has been a necessary response to recession-era declines in traditional warfare; armament needs and state investment; the discursive reframing of 'enemies'; and data-driven financialization's imperative to identify new markets. Each theme could warrant its own book, which simultaneously undermines and justifies Duncan's argument that activists must be aware of these complexities in order to develop effective modes of resistance. Duncan's pedagogical goal for doing so is clear:

> Given the powerful forces at work in promoting the expansion of surveillance, individuals and organizations seeking to resist unaccountable surveillance are going to have a tough fight on their hands. They will need to have a deep understanding of the actors that have driven this expansion, a keen sense of how to create public awareness about the doers, and highly developed advocacy skills to be able to mount an effective pushback (pp. 39–40).

The book's closing two chapters ultimately return to this point with an evaluation of factors and strategies that activists must consider before any effective mass struggle against state surveillance can effectively take place.

After setting out the complex web of factors and actors driving the public-private partnerships that make up the surveillance-military-industrial complex (although she doesn't actually deploy this term), Duncan aims to answer the chapter's titular question: 'Is Privacy Dead?' Her answer is a convincing and resounding 'No'. Not only is privacy well and alive, she argues, the desire to retain privacy as a fundamental human right actively persists. In defending her response that a collective response to privacy is not dead, she offers a consolidated review of global actors, strategies, tactics and platforms that have been instrumental in holding power to account since 2013. The chapter painstakingly reviews a laundry list of less-recognised small legal victories, court decisions and advances that multilateral platforms like the Wassenaar Agreement and ICAAN have made to effect surveillance and internet governance. This review can be distinguished from the more highly publicized post-Snowden advocacy work led by well-funded US- and UK-based privacy organizations like the Electronic Frontier Foundation, the Privacy Information Centre, ACLU and Privacy International (which she also reviews). Acknowledging that many of these privacy 'wins' have had little structural effect on state surveillance broadly, Duncan is encouraged by the hope that an international movement is building. While NGOs have certainly assisted these developments in

many ways, Duncan contends that any long-term political-economic changes to the state's invasive surveillance practices must be based on a mass movement.

It is not until Chapter Three that Duncan begins to address the book's central question: is a democratic post-apartheid South Africa turning towards a surveillance state? It is not the Snowden revelations that prompt this discussion so much as the growing culture of fear and mistrust of the state by the 2012 Marikana massacre, an event in which striking mine workers were shot and killed by police. Here, Duncan provides a useful sketch of the country's history of repression from apartheid to the present. She outlines the development of South Africa's intelligence services and their common tendency to identify – in order to quell – expressions of political activism perceived as challenging the state.

The historical overview of state security in South Africa amidst the consideration of the transition from an apartheid to post-apartheid state forces readers to consider the role surveillance has played in this process. While one may unproblematically celebrate the gains won by the African National Congress (ANC) in democratizing South Africa, it is easy to overlook the fact that the ANC is no longer a counter-liberation movement. Instead, it drives a hegemonic government structure that now sets national security and intelligence priorities. It is this kind of geopolitical history that makes the study of surveillance in a South African context so unique.

South Africa's apartheid history informed the state's decision to adopt a security policy in its 1996 Constitution that takes a humanist approach to national security (a state-centred one would have likely raised considerable skepticism and fear). As Duncan suggests, the authors of this new doctrine were keenly aware that, given South Africa's apartheid history, a narrower definition that prioritized state protection over citizens "could lead to the government abusing the security apparatus to protect itself or its ruling party from criticism, while failing to address the underlying factors that make society vulnerable" (p. 65). By contrast, a human security definition identifies internal threats to security across seven domains: economic security (poverty), food security (including access); health security (including the HIV/AIDS pandemic); environmental security (air/water or other degradation issues); personal security (violence, threats); community security (religious or cultural identity); and political security (human rights). Outwardly, a human approach to national security seems more democratic than a state-centred approach; yet, as Duncan suggests, a lack of checks and balances often fails to set limits on the impulse to securitize ever more domains of public and private life. If national security entails the 'freedom from fear and want', such a broadly defined model makes it quite easy to justify the operational and strategic expansion of intelligence (and thus surveillance) to evermore 'insecurities' and risks. And, according to Duncan, this is precisely what happened in South Africa as securitization discourse came to legitimize surveillance in ways not unlike the apartheid police state preceding it.

From here, the chapter offers a detailed, empirically-supported review of how the ANC has interpreted a human-centred security approach since coming to power in the 1990s. This has involved the use of new containment strategies that suppress legitimate and lawful democratic actions. They include, for example, new regulations to stifle organization and protest, and political intelligence-gathering and surveillance strategies to identify, target and construct pro-democracy activists and professionals as national security threats. Duncan presents many examples of how the ANC uses ideological warfare to marginalize legitimate political struggles, and contends there is "little argument" that the democratic presidency of Jacob Zuma (who served previously as head of the Department of Intelligence and Security) has strengthened the coercive capacities of the state (p. 76). This claim is evidenced by the documented growth in high-profile police violence against ordinary

civilians and protestors, police militarization and the normalization of the military's involvement in everyday police activities. Despite these more overt forms of violence, however, Duncan argues that the state's increasingly repressive coercion is more effectively occurring in less visible ways. Here she identifies three shifts in surveillance and policing that echo similar changes happening elsewhere (notably, changes that the Snowden revelations have helped confirm): the shift from human intelligence to signals intelligence; from militarized policing to intelligence-led policing; and from post-hoc to pre-emptive forms of repression and control, especially around protest activities.

In response to the question that opened the chapter – "Is South Africa reverting to a repressive police state?" – all evidence indicates a resounding 'Yes'. But here Duncan throws a curveball by framing contemporary South Africa as an example of a Gramscian 'organic crisis' in which capitalism's own internal contradictions precipitate challenges to the legitimacy of the ruling class. Drawing from decades' worth of municipal data, Duncan cites South Africa's protest cycle as empirical support for her claim that a counter-hegemonic movement against the ANC is underway. She suggests that there is "growing evidence of more communities becoming subjectively available for a politics alternative to that offered by the ANC alliance" (p. 84). Thus, South Africa's shift towards invisible social containment strategies to repress dissent is not a sign of the ANC's strength, but of its inability to engage in open repression, despite a seemingly dark and violent political culture. For Duncan, the current moment holds "great promise" for change as popular movements outside the hegemonic bloc continue to grow (p. 87).

Chapters Four and Five turn toward contemporary surveillance practices in post-apartheid South Africa. The former chapter, reviewing the strengths and weaknesses of the regulatory act governing lawful intercepts in South Africa will be useful to readers with an interest in South Africa's national surveillance and policing laws, or to comparativist legal scholars. Chapter Five considers the relevance that Snowden's NSA revelations might have for the country and examines South Africa as both a subject and object of global mass surveillance. Insofar as the Snowden files are concerned, Duncan concludes that the country is of little interest to Five Eyes (it is not even identified as a third-party contributor unlike several other African nations). Duncan carefully reviews the possibility that South Africa had a connection with the Snowden files. At the end of the review, South Africa's non-existent relationship to Snowden almost reads as disappointment. There is almost a sense here of being left out of 'the [Five Eyes] club' (to borrow a phrase from former New Zealand Prime Minister John Key). Duncan moves on to illustrate South Africa's growing role as a user and producer of surveillance technologies by unpacking the political economy of its surveillance-industrial complex. Examples include government investments in Vastech, a local firm that has attempted to expand surveillance technologies to parts of the developing world, and the building of one-stop monitoring centres that offer "panoptic central surveillance points" for the state (p. 116). Duncan also presents evidence that mass surveillance software and services have been sold to South Africa by European firms. This provides insight as to the kinds of internal intercepts that might be exercised by the state. However, while this chapter centres upon mass surveillance, it mostly discusses the tools, devices and practices which are indicative of tactical surveillance techniques. For example, the discussion on backdoor surveillance, hacking, and IMSI (International Mobile Subscriber Identity) catchers refers to strategies of targeted surveillance rather than as indiscriminate mass strategies of metadata collection.

Chapters Six and Seven trace the expansion of emerging technologies into new sites of population monitoring – public space and the body. The former chapter attends to street-level monitoring and locational privacy issues arising from the state's use of CCTV, automatic number-plate recognition

(ANPR) and drones. Chapter Seven traces developments in the capacity of biometric technologies to manage and control beneficiaries, migrants and other marginalized groups. South Africa's CCTV, e-tolling and drone initiatives are largely backed by public-private partnerships. Thus, commercial imperatives animate their operation and justification despite limited evidence that such technologies reduce crime or enhance security. The centralization, automation and privatization of biometrics, for example, may promise efficiencies in the use of resourcing. However, Duncan argues that the use of biometrics to police beneficiaries and borders merely contributes to the state's class-bound and xenophobic agenda under the guise of centralizing security. This renders the most vulnerable segments of the population more insecure, precarious and exploitable. Simultaneously, regulation of such surveillance practices notoriously lags behind technological development, thus making the potential for abuse even greater.

Chapter Eight turns back to an overall assessment of state communications surveillance, highlighting how the shift from human to signals intelligence has made surveillance more difficult to detect compared to the days of spyglass-and-wiretapping. Duncan sees this invisibility as presenting an uphill battle for activists and citizens who might otherwise wish to mobilize against these ubiquitous and ever-invasive forms of surveillance. Duncan does not rely on speculation and worst-case scenarios, but rather draws from fieldwork conducted with professionals working in contexts where communications privacy is central to their work. Selection bias aside (more details could have been included on methods here), Duncan's interviews with four academics, three lawyers, three journalists and 13 activists reveal known instances of state surveillance and their tactics of resistance. They include a range of practical and creative practices: the use of encryption or pre-registered SIM cards; prioritizing face-to-face meetings; and the exercise of *sousveillance* (i.e., watching the watchers).

Personal accounts of these practices inform a framework that attempts to establish what an effective mass resistance to today's invisible but all-pervasive surveillance practices might look like. Duncan builds on resistance strategies laid out by scholars Laurence Cox, Alf Nilsen, David Lyon and Henry Giroux in order to combine the experiential knowledge of the professionals and activists she has interviewed. This resistance framework is anticipated throughout the book, yet its 'big reveal' is surprisingly unspecific. Duncan proposes a typology of factors that must be considered for effective resistance to take place. These factors are categorized as material/technological; cultural; institutional; political and economic. A sentence or two briefly explains each category. An expansive chart features short bullet-points for the "effective" and "ineffective" resistance practices that are relevant to each factor (pp. 202–203). For example, at the material/technological level, effective resistance to surveillance requires "knowledge of how to protect sensitive information through encryption, avoiding insecure communications"; under ineffective resistance, Duncan posits the "Lack of knowledge of how to protect sensitive information through encryption, avoiding insecure communications, etc." Where one goes with that is beyond me; perhaps the chart's utility is that it offers insight as to where efforts and limited resources might be best directed (or not directed) in relation to actions that activists are already undertaking. Ultimately the chart does not present a practical guide for effective resistance (which is probably what makes it a 'framework' as opposed to a 'tool kit'). The conclusion that resistance must take place across *all* of the designated categories seems daunting but realistic. It is also likely that the framework's efficacy will be more evident to those already politically engaged in anti-surveillance activism on the ground. Many of the recommendations might speak to strategies already undertaken. At any rate, the chart reminds readers of Duncan's earlier point that a social view of privacy requires hard, relentless work. The networked

nature of privacy in a digital era, in which communications data is harnessed as a mass, requires the active involvement of all citizens in the struggle to ensure democratic rights and principles remain intact.

Overall, this is an especially well-researched book that offers nuanced insights concerning the political economy of surveillance in an under-examined part of the world. Duncan's work is well-documented, supported by rigorous fieldwork that relies on a range of primary and secondary sources: freedom of information requests, data leaks, plus interviews with high-level industry insiders, policy makers, professionals, political activists and organizers. The language is clear and concise and is not bogged down in heavy theory, making the text relevant to a wide range of readers. Despite this, the book is not an easy read. The first half especially is over-run with acronyms for state agencies, organizations, legislative policies and other regulatory bodies. Excessive use of technical jargon can at times overwhelm those with less interest or knowledge in how surveillance platforms and devices actually work. It is highly unlikely that readers with only a passing interest in the Snowden revelations will find the book as engaging as those oriented towards a more general readership, (e.g., Glen Greenwald's *Nowhere to Hide,* or David Lyon's *The Culture of Surveillance*).

However, readers will undoubtedly appreciate Duncan's straightforward approach to explaining the political economy of state surveillance in South Africa. As indicated by the framework it employs, the book does not leave the reader asking what most surveillance texts do: 'What can be done?' True to political economy's normative framework, Duncan does not shy away from offering useful suggestions in each chapter about potential sites of intervention. In that sense, the individual chapters are perhaps more useful than Chapter Eight's attempt at laying out a framework of resistance. Each chapter makes individualized recommendations concerning the technology, policy or program under analysis — be it a general call for more regulatory oversight or *specific* legislative or policy changes; alternative ways of running a particular program; or new ways of handling data. For example, the chapter on the technologies of social control presumably used by South African state agencies makes suggestions for ameliorating their potential abuses. Here, Duncan draws from the ACLU's recommendations for the Federal use of IMSI regarding the need for search warrants based on probable cause, disclosures about precisely how many private citizens might be affected, as well as the minimization strategies and data storage procedures required to mitigate privacy violations (p. 133). Other recommendations include the elimination of non-disclosure agreements with manufacturers, the public disclosure of how many times certain technologies have been used as well as annual reports detailing "all operational policies relating to their use" (p. 134). Elsewhere, Duncan's normative critique of CCTV, automated tolling and drones is premised on the equation of mobility with locational privacy: "As a basic principle, people should have a right to travel without being coerced into revealing their locational information" (p. 153). But she does not leave readers to determine how that ought to work; she makes practical recommendations for redressing the issue. In the case of automated tolling, for example, she suggests alternative payment options (including crypto-based cash payments). She also advocates the storage of locational data according to an individual's privacy preference – pre-paid transponders, dynamic pre-paid license plates. These and other ideas entail an opt-out default system whereby citizens can freely give their informed consent to opt-in. These suggestions are very useful because they make the complicated structural issues, which are embedded within an ever-expanding global surveillance industrial complex, tangible and relevant. They are certainly more useful than the vague framework of 'effective resistance factors' that concludes the book. The earlier practical recommendations that I have discussed are perhaps worth charting in a similar manner, maybe as an online appendix of a future edition. Whether

Duncan's text can effectively 'Stop the Spies' is debatable, but for the right readers it certainly offers a range of pathways for getting started – and the sense of hope that a push-back against unaccountable surveillance is coming.

Author bio

Kathleen Kuehn is a Senior Lecturer in Media Studies in the School of English, Film, Theatre, and Media Studies at Victoria University of Wellington. Her research focuses on the relationship between digital media/technologies, privacy, surveillance, as well as the constitution of cultural labour. She is the author of *The Post-Snowden Era: Mass Surveillance and Privacy in New Zealand* (BWB Texts, 2016), amongst numerous other articles and book chapters. Kathleen is currently taking a short hiatus from surveillance studies to write about women in the craft beer industry.