

Summaries

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Dragnets, running engines and a state within the state: metaphors in the history of Dutch security services, 1919 till now

Constant Hijzen

Since intelligence and espionage are so secret by nature, discussing it proves to be rather difficult. Debates about intelligence therefore tend to be fought with metaphors. Using Johnson's and Lakoff's idea that metaphors provide conceptual frameworks and thus have real-world effects, as well as Butler's idea of performative power, this article has explored the most widely used metaphors in Dutch intelligence history. The Dutch security services have been depicted, in a wide variety of images, broadly as remnants of the past (ruins or 'anachronisms'), as spies on wooden shoes, as a stowaway of democracy, and as a state within the state. Since the civil servants and politicians almost always felt the need to respond to these metaphors, by providing explanation, nuance, and facts – or by introducing a competing metaphor – it is argued that these metaphors have real-world effects, showing how the security service was positioned in politics and society.

For better or for worse: The marriage between parliament and intelligence and security

Eleni Braat

Secrecy complicates the relationship between intelligence and security services and their responsible ministers on the one hand, and members of parliament on the other. How can parliament deal constructively with intelligence and security services, despite the secrecy involved? This article presents a novel conceptual framework to analyse political relations influenced by secrecy, based on four recurring types of parliamentary reactions to intelligence and security services.

The focus is a case study of the Dutch parliament and Security Service (BVD) between 1975 and 1995. The analysis demonstrates that constructive parliamentary dealings with secret services depend both on party-political responses to secrecy and strategic responses on the part of the secret services to ambiguous relationships with parliament. The presented typology of four recurring parliamentary reactions to intelligence and security services and the model for constructive parliamentary debate contribute to a better understanding of reasons and consequences of political and societal reactions to the new Dutch Intelligence and Security Services Act (Wiv).

Intelligence leadership. Leadership in the twilight between secrecy and openness

Paul Abels

This article highlights the special position of European heads of intelligence and security services. In the search for important characteristics of intelligence leadership through time, a comparison is made between five services from five different countries (Germany, France, the Netherlands, Greece and Spain). Using Anglo-American reference information and a leadership typology developed by intelligence expert Robarge, the consecutive heads of service in these European countries are profiled and categorized. This leads to a picture that has always been dominated by males, a strong military presence and many end-of-career heads. Their influence on the internal and external service development was often substantial, with alternate appointments of inside and outside reformers. The scale of openness usually constituted a struggle with both the inside and outside world. Nowadays, the heads are being confronted with new challenges and demands, which leads to the conclusion that a new form of 'distributed' or 'interdependent' leadership is required, in which old reflexes to appoint people with an operational, military or police background as heads of these services are no longer self-evident.

Comparing the old and new Intelligence and Security Services Acts in the Netherlands

Rob Dielemans

Last year, Dutch parliament approved the proposal for a new Intelligence and Security Services Act (Wiv 2017). This law will replace the current Intelligence and Security Services Act 2002 (Wiv 2002). The

Wiv 2017 should be considered feasible with effect from 1 May 2018. Before that time however, an advisory referendum on the new law will be held on 21 March. This article first discusses the nature of the law and the need for innovation. Subsequently, a comparison of both laws takes place in general terms, with regard to the powers of the intelligence and security services, the safeguards, the supervision, the complaint handling and the international cooperation between intelligence and security services. It is argued that the extension of the powers of the services in the Wiv 2017 is only limited in scope, while the safeguards have been considerably strengthened. The introduction of a binding judgment in complaint handling also contributes to a better and more effective legal protection for citizens.

Oversight in the Intelligence and Security Services Act 2017

Mireille Hagens

The new Intelligence and Security Services Act 2017 has generated a lot of criticism in The Netherlands. Although the act was adopted in parliament in July 2017, the implementation will take place in May 2018. Beforehand an advisory referendum will give the public the opportunity to express their opinion on the new act: the modernisation of the investigatory powers of the services and the strengthening of the necessary safeguards and oversight mechanisms. Both have met with their share of criticism. In this paper the focus is on the enhanced oversight mechanism. It is argued that although different choices could have been made regarding the organisation of oversight, the new system fulfills the requirements set by the European Court of Human Rights. The real question is whether the new act provides for effective and strong oversight in practice to ensure a proper balance between national security and privacy protection in this digital era. The opportunities and challenges are explored.

A few remarks on the new Dutch Intelligence and Security Services Act. The extension of powers evaluated on the basis of human rights clauses

Nico van Eijk and Quirine Eijkman

The new Dutch Intelligence and Security Services Act 2017 extends the (special) powers of the intelligence and security services and introduces a new system of checks and balances. In this article several of the most impactful changes and underlying issues are discussed. They

include the technology neutral approach, the new bulk surveillance powers, oversight (its role, tasks, independence and the use of outside experts), complaints and whistleblowers procedure, the lack of appeal procedures and the exchange of information with foreign agencies.

Intelligence research from a methodological perspective

Gilliam de Valk and Willemijn Aerdt

This article compares criminal investigations and judicial research to intelligence research. Criminal investigations and judicial research focus on evidence and prosecution, while intelligence researchers don't want to overlook any threats. Methodologically speaking: criminal investigations and judicial research focus on keeping a low α value, intelligence focusses on keeping a low β value. This β oriented research should lead to drastically different research design. β -oriented research is a quest for the unknowns. Possible threats need to be neutralized, most of the times without a judicial review (by a judge). This absence of review, in combination with the additional special powers laid down in the revised Intelligence and Security Services Acts, should be reason for adjustment of the oversight.

The Snowden disclosures and untargeted bulk interception under the new Dutch Intelligence and Security Services Act

Peter Koop

This year, the new Dutch Intelligence and Security Services Act (Wiv 2017) will come into force. It's most controversial part is the untargeted bulk interception of internet and telephone cables, where previously this was only allowed for wireless communication links. Since June 2013, the Snowden revelations led to a fear for mass surveillance of ordinary citizens by NSA and GCHQ. The original documents however show that their collection programs are actually focused at valid foreign intelligence targets. Where the British and Americans have online and realtime filtering systems, the Dutch will store the communications from untargeted cable interception for up to three years. Also the Dutch will lack the opportunity of XKEYSCORE to find anonymous internet communications, as they will select content just as targeted as is the case with traditional wiretaps. Therefore, the main improvement for Dutch intelligence appears to be a much greater access to metadata

Silence is silver, speaking is gold

Bob de Graaff and Constant Hijzen

Although traditionally, it has been argued that intelligence and security services can barely be discussed in public – a veil of secrecy makes a thorough and informed debate almost impossible, the outside world is ignorant, say the insiders – we argue that today's mature civil society does not accept that anymore. Although the government has struggled to address social anxiety and political criticism in the past decades, communication and strategic discussions have never received proper attention. Due to the technological changes, affecting the intelligence practice as well as daily life of citizens, the authors argue that the positioning of intelligence and security services in the broader democratic state should receive structural attention and sustainable communication efforts.