“War and Contentious Politics: 
Introduction to a Poorly Understood Relationship”

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Two decades ago, when my teacher and collaborator, Charles Tilly, published his major work on war and state building, *Coercion, Capital, and European States* (1992), I had the bad grace to complain that the book ignored contentious politics. Tilly wrote about how warmaking had led to statebuilding, taxation, protection of the citizens, and ultimately, to citizen rights in early modern Europe – but he never dealt with the subject he practically invented during his long and distinguished career – contentious politics. How did Tilly respond when I charged him with this sin of omission? “I have written many books on contention,” he cracked, his tongue deeply embedded in his cheek; “It’s time I wrote about something else.”

When Tilly, and I –together with sociologist Doug McAdam -- decided to write a book together, called *Dynamics of Contention* (2001), in the 1990s, we did not want to produce yet another book on “social movements”, the subject on which we had cut our intellectual teeth. We thought much could be gained and little would be lost if we embedded movements in a broader framework.

(Figure 1 about here)

We studied 15 cases of movements, strikes, protest waves, nationalism, democratization, and revolution, with a focus on the relational mechanisms that connected them to states. This was what we called “contentious politics”.

But where to draw the line around so broad a subject? McAdam and I saw war in a separate category from contention. Tilly demurred, but, intellectual democrat that he was, he bowed to our more modest ambitions. But he was right: war is the most
extreme form of contention, and it is closely related to social movements both historically and in the contemporary world.

Think of the following examples:

• The wars of the European Reformation were fought – at least at first – between religious movements – Protestantism, a movement that was struggling to create a new and unmediated relation between man and his God;
• The French Revolution: a movement-based new state that fought simultaneous wars against foreign powers and domestic counter-revolution;
• The nationalist movements in the Americas, which were fought against British, Spanish, and Portuguese imperialism and gave rise, among others to the Bolivarian movement;
• The United States civil war, which was fought – at least in part -- by an abolitionist movement and adopted its program of emancipation;
• The Fascist revolution in Italy, which grew directly out of a movement of veterans of World War One;
• The upsurge of contention and the fall of the dictatorship in Argentina after the disastrous Malvinas war.

All of these wars and revolutions either grew out of, were accompanied by, or led to major episodes of contentious politics. Yet except for the important strand of the social movement literature on peace movements, scholars of war making have seldom dealt with the broader relations between domestic contention and war. Think of the most
sweeping book in English on the domestic politics of war in Latin America, Miguel Centeno’s *Blood and Debt* (2002): Though in conversation with Tilly’s book on war and state building in Europe, Centeno’s work ignores the relationship between war and domestic contention in the eleven Latin America wars he studied.¹

In my new book, *War, States and Contention*, to be published by Cornell Press in 2015, I take up the intellectual challenge of relating wars to contentious politics. I try to show that the advent of war is sometimes driven by social movements; that movements often affect the conduct of war and can change its direction; and that wars often trigger the rise and expansion of movements in their wake. Sometimes these are progressive movements – like the democratization movement in Argentina after the Malvinas war – but sometimes in a reactionary direction, as in the fascist revolution in Italy after the First World War.

The first half of *War, States and Contention* analyzes three historical cases: revolutionary France, the United States civil war, and the growth of fascism out of the First World War in Italy. The second half focusses on the relations between war and contention, and its effects on the state in the United States, in the wake of the bombings of September 11, 2001. I’m going to base what I say today about contentious politics during the period following 9/11 in the United States, focusing on three significant forms of contention:

- The enormous outpouring of peace activism against the Iraq war in 2003 – a classical social movement;

¹ To be fair, there are 14 references to “nationalism” in the index of Centeno’s book.
• The legal mobilization of a coalition of lawyers and civil liberties groups against illegal detention, torture, and surveillance – a more contained form of contention;
• And a radically new form of contention – digital whistleblowing – using the tools that infrastructural power has distributed widely in the American technology sector.

Let me begin by first distinguishing the term “contentious politics” from the more familiar term “social movements.” The reason for this will become clearer in the second part of my talk when I turn to the varied kinds of contention we find responding to the United States’ wars of the early 21st century – only one of which can be accurately described as a “social movement.” I will close my talk with a broader issue: how the American state manages to control contention without becoming a despotic state.

**Contentious Politics and Infrastructural Power**

Over the past decade and more, North American and European scholars have begun to employ a broader concept than social movements – “contentious politics” (henceforth CP). Coined by the late Charles Tilly in a series of works he began in the 1970s,² the term’s use has grown dramatically since the early 1990s. This graphic presents an NGram analysis of the appearance of the combination of the two words

“contentious politics” in Google Books in English between 1990 and 2008 – the last year for which the NGram reader is currently available. As the graph shows, from a magnitude approaching zero in 1990, the term’s use grew almost geometrically over a period of eighteen years.

(Figure 2 about here)

Scholarly employment of the term has grown rapidly. Examining Google Scholar for three-year periods from 1990 through 2013 – the last year for which complete citations could be found -- the total number of “hits” for the term “contentious politics” rose from 5,970 in 1990-92, to 24,200 in 2000-2002, falling slightly to 19,400 for the two years 2012-2013.

Why this increase in the use of a term that was almost completely unknown two decades ago? One reason was surely its association with Tilly, his distinguished reputation, and its use by cohorts of his students and collaborators. But probably more important was the expanding range of contention beyond classical social movements, to include civil wars, guerilla insurgencies, clandestine armed conflict, suicide bombings, and the growing interest of scholars in these broader forms of contention. As these more lethal forms of conflict spread across the globe, scholars felt the need for a lexicon that went beyond the traditional term “social movements.” Rather than sweep all forms of popular mobilization into the bin of social movements, the contentious politics approach places movements in the context of a much wider variety of struggles. Following the approach in the DOC project, I define contentious politics as
what happens when collective actors join forces in confrontation with elites, authorities, and opponents around their claims or the claims of those they claim to represent” (Tarrow 2011:4).³

One implication of this move is to limit the definition of social movements to what Manuel Antonio Garretón defines as “types of collective actions that have relative stability over time and a certain degree of organization, oriented towards changes or conservation of some sphere of social life: (Garretón et al. 2003: 5);⁴ another is to analyze forms of collective action that social movement scholars have largely ignored; and a third is to force us to pay attention to the relations between different forms of contention – both contained and transgressive.

How does war affect contentious politics? One answer is through “constitutional dictatorship” (Rossiter 1963), but another is through emergency rule. In his well-known theory of the state German legal theorist, Karl Schmitt famously reduced state sovereignty to the rule: “Sovereign is he who decides what the law is” (1985). In his book on Political Theology, and in his essay on The Partisan, he described politics as a struggle between enemies, with the prime enemy those who oppose the ruler’s designs (2007). Schmitt applauded Weimar President Hindenberg’s use of exceptional powers, which brought Adolf Hitler and the Nazis to power. He was writing about what I will call – with Michael Mann – “despotic power” (Mann

³ This has been translated in the Spanish language edition of Power in Movement as: “lo que ocurre cuando actores colectivos unen sus fuerzas para oponerse a las élites, autoridades y adverores ej defensa de sus reivindicaciones o de las reivindicaciones a quienes dicen representar” (Tarrow. 2012:28). Another, more detailed definition comes from Dan Slater, in his book, Ordering Power, as @

⁴ I do not discuss Garretón et al.’s even narrower category of “a Social Movement (SM, capitalized and singular)., a carrier of a sense of history and the incarnation of a force for broad social change” of clear Tourainian derivation, ibid..
The despotic state in wartime crushes opposition and regards civil society as a territory to be conquered.

(Figure 3 about here)

In the wake of the attacks on the World Trade Center and the Pentagon, many constitutional lawyers and social scientists feared that the Bush administration’s expansion of power would produce a Schmittian despotic state. Prominent among them was sociologist Kim Scheppele, who wrote a deeply pessimistic article subtitled “The international state of emergency” (2006). In Scheppele’s model, the “script of” exceptional powers begins at the center of the state but follows seven predicable stages that increasingly penetrates civil society with despotic powers:

- Executive centralization:
- Militarization
- Procedural shortcuts:
- Putting people in their places: Regimes of preventive detention and banning demonstrations;
- Inversion of speech protection;
- Reversal of transparency;
- Anticipatory violence.

A despotic state uses the instruments of despotic power – the military, the police, states of exception – to control its citizens when it goes to war. It follows that there would be a contraction of contentious politics as the state becomes more centralized, more militarized, takes procedural shortcuts, uses preventive detention and bans
demonstrations, constricts free speech, increases secrecy, and uses violence against opponents, as in Scheppele’s model.

There is good evidence that parts of what Scheppele describes occurred in the United States after the 9/11 bombings – for example, the detention of Muslim immigrants in New York City and the illegal detention and torture of prisoners swept up in the battlefield in Afghanistan and Iraq (Margulies 2005). And there was certainly a centralization and militarization of the state. But there is little evidence of the constriction of contentious politics. Why was this? I would argue that it was because the United States state balances despotic with a different form of power – *infrastructural power*.

In his masterwork, *The Sources of Social Power*, Michael Mann disaggregated the forms and logics of state power into two types: despotic power -- “the power of the elite itself over civil society” (1987:114)-- and infrastructural power -- “the power of the state to penetrate and centrally coordinate the activities of civil society through its own infrastructure” (ibid). This distinction is useful in understanding how the United States after 9/11 both mobilized society on behalf of war-making and undercut the claims of those who opposed its policies. In contrast to Schmitt’s concept of the sovereign as he who decides what the law is, “infrastructural power” makes it possible for the state to maintain and increase state power indirectly – by penetrating and centrally coordinating

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5 It is not clear why Mann reduced his important distinction between despotic and infrastructural power, which framed his key 1987 article, into a side-issue in the later volumes of *The Sources of Social Power*. For a creative application of his concepts to the political economy of East Asia, see Linda Weiss’s article “Governed Interdependence” (1995). For an appreciation and critique of Mann’s work, see her “Infrastructural Power, Economic Transformation, and Globalization”, in Hall and Schroeder, *An Anatomy of Power: The Social Theory of Michael Mann* (2006).
The activities of civil society through its own infrastructure.

The instruments of infrastructural power go well beyond repression of dissidence. They include influencing the media. For example, Lance Bennett and his colleagues found that – aided by the cooptation of the Democratic party -- the media “indexed the news” to support the government’s war making policies (Bennett et al. 2008). There was never any actual censorship or control of the media but there was constant interaction with the media, as when the Bush administration convinced the New York Times to withhold information it had received that the government was spying on Americans outside the law.

Infrastructural power dips deeply within civil society by the expansion of military contracts on which hundreds of thousands of workers and thousands of businesses have come to depend. For example, in her recent book, The American Warfare State (2014), Rebecca Thorpe shows how defense contracting has expanded to homogeneous economies in rural and exurban areas in which it is the only, or the predominant form of employment. Here is Thorpe’s map of the allocation of defense contracts to private firms in 1966:

(Figure 4 about here)

And here is her map of defense contracts after the first five years following 9/11:

(Figure 5 about here)

Through her innovative tracking of budget outlays to local economies, Thorpe has revealed the connection between military budgets, congressional budgeting, and local
voting behavior. Infrastructural power spreads the benefits of warmaking broadly across the United States’ civil society.

But there is another side of the medal of infrastructural power: it permits – and in some ways encourages -- mobilization within civil society. This is why we see no decline in contentious politics in the years since the United States began its wars of the 21st century. Infrastructural power depends on an active and pluralistic civil society in which the clash of interests includes forms of contentious politics that express opposition but do not threaten the hegemony of the state. In the next part of this talk, I will survey three of these forms of contention. Each of these examples shows the openness of infrastructural power in the United States at war. But it also shows how infrastructural power gives the state the flexibility and the resources to protect its war-making policies and practices.

**The Anti-Iraq War Movement**

(Table 1 about here)

On February 15, 2003, millions of people demonstrated around the world against the impending invasion of Iraq. As Stefaan Walgrave and Dieter Rucht estimated in *The World Says No To War* (2010), 2 million 500 thousand Americans joined the protest (Verhulst 2010:16-17). Not only on the East and West coasts – where we find the usual suspects of American activism -- but in the conservative heartland, Americans turned out in force to oppose the war that President Bush had already decided upon.
Drawing on an analysis of public opinion polls done by my Cornell colleagues, Chan Suh and David Strang, we can see that by 2007, \( \frac{3}{4} \) of the surveyed public was in favor of bringing the U.S. troops home from the war in Iraq. What is most remarkable from the standpoint of American power is that these protests went completely unrepressed. No one went to jail for opposing the wars in Iraq and Afghanistan, and a presidential candidate, Barack Obama, largely won the 2008 election on a platform of opposing the wars in Iraq and Afghanistan. But as we will see, the antiwar movement almost completely collapsed soon after, and the Obama administration continued the wars it had inherited.

(Figure 6 about here)

**Legal Mobilization**

The antiwar movement was a classical social movement, made up of a coalition of new and existing peace groups, organized through movement networks like those studied by Mario Diani and Doug McAdam (Diani 1995; Diani and McAdam 2003), and ideologically diverse (Woehrle et al 2008). But if we were to stop with classical social movements we would underestimate the scope and diversity of the opposition to the Bush administration’s wars. You here in Chile – and my friends in Argentina – have had plenty of evidence of a second form of contention – legal mobilization – brought about by the struggle to reverse the amnesty that the military regime here and in Argentina gave themselves (Acuña and Smulovitz 1996, Couso et al, 2010, Muñoz León 2014, Smulovitz 2003, 2006, and 2012). What you may not know is that there is a vital strand
of research on legal mobilization in the United States that has exploded in response to the War on Terror and the wars in Iraq and Afghanistan.

When we look at how these wars affected contentious politics, we can see a slow-growing wave of libertarian counter-actions from a network of human rights lawyers, private law firms who defended detainees, civil society groups like the Bill of Rights Defense Committee, and legally-oriented social movement organizations like the Center for Constitutional Rights and the American Civil Liberties Union. The first group was a small civil rights organization in New York City that quickly took up the cause of defending the habeas corpus rights of detainees in Guantánamo and elsewhere. The second, the traditional defender of civil liberties, was slower to react but used a variety of tactics to defend the rights of both citizens and detainees, including the use of the Freedom of Information Act to seek information from the government about its detention and surveillance practices (Tarrow 2015: ch. 9).

Both groups were attacked for a lack of loyalty by the super-patriots of the post-9/11 period, but both of them gained support, both from the legal profession and from the public in the decade that followed. Here are some summary statistics on membership gains, financial support, and staff size of the two organizations at the beginning of the post 9/11 decade and a decade later. Even more important, CCR – which had a radical reputation before 9/11 – attracted the cooperation of a network of bourgeois lawyers from big law firms in New York and Washington for the legal cases that went to the courts.

(Table 2 about here)
Their efforts bore fruit in a series of Supreme Court decisions in the middle of the decade, when the Court agreed that the government could not deprive detainees of all their rights and that the military commissions set up by the Bush administration were illegal. These legal decisions set a clear limit on the tendency of the U.S. state to exercise exceptional powers. They lacked the historical drama and the broad relevance of the Pinochet decisions in Chile or the decisions in favor of the desaparecidos in Argentina, but to those with a commitment to the rule of law, they drew a line against the Bush administration’s theory of the unitary executive. The successes of legal mobilization show that when we move beyond the traditional boundaries of our field we find forms of contentious politics that may be more effective than classical social movements. This takes me to my final example – what I call “digital activism.”

**Digital Activism**

In 2013, a virtual tornado hit the American National Security Agency near Washington DC. A 29-year old NSA private contractor, Edward Snowden had downloaded a large number of classified government documents and given them to a freelance journalist, Glenn Greenwald, and a documentary film maker, Laura Poitras, in a hotel in Hong Kong.\(^6\) Greenwald and Poitras turned the files over to The Guardian and The Washington Post, and within a week, they revealed to the world the secrets that Snowden had uncovered. It turned out that the NSA had been monitoring telephone traffic from around the world, invading

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\(^6\) The government at one point accused Snowden of stealing “millions of pages of documents,” a number that has no known source in reality, but which the press picked up on as if it were a fact.
citizens’ privacy, and forcing internet companies to share their records with the government.\(^7\) It also turned out that the NSA leadership had been lying to Congress in sworn testimony about what the agency was doing. Snowden’s revelations were the most important release of government documents since the Pentagon Papers in the 1960s. Nearly two years later, new documents continue to be made public, revealing the scope of the government’s abuses of privacy, and Snowden – though in semi-hiding in Moscow – remains very much in the public eye.\(^8\)

International, domestic, and business reactions to the Snowden revelations were swift:

- Internationally, Snowden’s revelations caused a crisis with some of the United States’ closest allies – like Chancellor Merkel of Germany, who discovered the NSA had been hacking her cellphone.\(^9\)

- Domestically, they forced the President to create a commission to investigate the NSA’s invasions of privacy and led a conservative lawmaker, Representative Jim Andrew Ross Sorkin, “Tech Companies Tread Lightly in Statements on U.S. Spying”, \textit{New York Times}, June 10, 2013, available at [http://dealbook.nytimes.com/2013/06/10/tech-companies-tread-lightly-in-statements-on-u-s-spying/?_php=true&_type=blogs&_r=0](http://dealbook.nytimes.com/2013/06/10/tech-companies-tread-lightly-in-statements-on-u-s-spying/?_php=true&_type=blogs&_r=0). As late as September 2014, there were still 24,700,000 “hits” for the keywords “Snowden + NSA” on Google.


\(^8\) Greenwald’s article can be found at [http://www.theguardian.com/world/2014/may/11/glenn-greenwald-nsa-whistleblower-edward-snowden-book](http://www.theguardian.com/world/2014/may/11/glenn-greenwald-nsa-whistleblower-edward-snowden-book) and Poitras’s video at [http://www.theguardian.com/world/video/2013/jun/09/nsa-whistleblower-edward-snowden-interview-video](http://www.theguardian.com/world/video/2013/jun/09/nsa-whistleblower-edward-snowden-interview-video). The story of how Greenwald and Poitras were contacted by Snowden, obtained these files from him, and got them published by the two newspapers is told with gripping suspense by Greenwald in his \textit{No Place to Hide}, published by Metropolitan Books in 2014. At this writing, it is too soon for scholarly assessments of the “Snowden affair” to have appeared, but see Luke Harding’s \textit{The Snowden Files} (2014).

Sensenbrenner, to propose a new law that would rein in the agency and it led the big Internet companies to increase the encryption of their clients’ messages.10

• Perhaps the most important outcome was that it led the big international Internet companies, like Google and Apple, to increase the encryption of their clients’ messages, for fear that they would lose business to smaller competitors in Europe that escaped the net of the NSA.

This was a major threat to the American surveillance state because it had been depending since 2001 on the cooperation of these companies to give it access to telephone and internet traffic both at home and around the world.

The Snowden story shows how far state surveillance has penetrated into people’s privacy in the United States and elsewhere; it also shows how more intrusive the American state has become since 9/11; but it also shows how “infrastructural power” diffuses resources within civil society. Snowden, after all, was a private contractor, working for a private company. He was among the thousands of other Americans working for hundreds of private companies that, since September 11, have been carrying out public functions (Arkin 2013; Weiss 2013). The story also shows how contentious politics is being transformed from the organized movements that are familiar to movement scholars into more diffuse forms of contention. Snowden looks nothing like the kind of activist whom social movement scholars have studied since the 1960s. But his actions and those of his

8. When Director of National Intelligence James Clapper was asked by Senator Ron Wyden of the Senate Intelligence Committee whether Americans’ private communications were being surveilled, he lied to the American people. The Clapper testimony to the Senate Intelligence Committee in March 2013 can be found at http://www.youtube.com/watch?v=T9ss2_0emOY. In June 2013, Clapper apologized to Intelligence Committee Chair, Dianne Feinstein, for “erroneous testimony”.

associates show that the new wars of the 21st century have produced new threats to civil liberties and new forms of contention against them.

**Infrastructural Power as a Double-Edged Sword**

But infrastructural power is a double-edged sword. For just as it gives civil society groups and isolated activists like Snowden the tools to oppose the excesses of government policy after 2001, it also gives the government the flexibility to use the law to defend its policies. In all three of the examples I have just used, there was a blowback against opposition to the government’s policies.

Let’s start with the most conventional social movement campaign we looked at – the 2003 movement against the Iraq war. As we saw, over 2.5 million citizens participated in the global protests against that war. But when we look at who they were, we find that most of them were engaged citizens, rather than radicals or isolationists. 51 percent of them had voted in the last national elections; 91 percent supported the Democratic Party, and 23 percent were active party identifiers. For contrast, this figure places the American results alongside the Italian data analyzed by Donatella della Porta and her team for the Italian participants in the same global protest.

(Table 3 about here)

Our idea of infrastructural power would lead us to see these findings as evidence of the vitality of civil society in the United States. But ordinary politics did not go to sleep because the country was at war: by the 2006 congressional elections, the Democratic party looked like it could capitalize on the growing antiwar sentiment to
take back control of Congress. Then, in 2008, Barack Obama campaigned for the presidency on an antiwar platform. The result of both elections was that the majority of the peace movement activists went back to their traditional party identification and the movement against the war collapsed.

Two sociologists, Michael Heaney and Fabio Rojas have studied the levels of participation in peace demonstrations. This is what they found:

(Figure 7 about here)

After the Democrats took over Congress and Obama won the presidency, the level of participation in antiwar protests went down from between 10,000 and 100,000 participants to between 1,000 and 10,000 (Heaney and Rojas 2015). Infrastructural power allowed civil society to produce a massive antiwar movement within the gates of the political system; but the same advantages led to its decline as antiwar sentiment became part of mainstream politics.

Legal mobilization showed the same combination of success and failure, as the American state fought back against the restrictions on its hegemonic power that the Supreme Court imposed in the cases we looked at earlier. Civil liberties groups were delighted with the Court’s decisions. The Center for Constitutional Rights – which played a hand in organizing legal resistance to the Bush detention policies, called for the lower courts to “quickly move to hold hearings in the 200-odd pending cases where detainees are challenging their indefinite detention without charges.”

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Alas, this was not to be: The Supreme Court allowed the lower courts to define the content of its decisions and they did so extremely narrowly. When a district court approved the habeas petition of Mohammed Al-Adahi, the Court of Appeals of the DC Circuit – something like a Corte de Apelaciones Federales -- reversed the decision on the ground that the lower court had held the government up to too high a standard of evidence. An analysis by two law professors showed that following the Al-Adahi decision, of 12 Guantánamo habeas petitions that came to the DC Circuit, 11 were reversed (Denbeaux et al. 2012).

The Military Commissions that the Supreme Court declared unconstitutional have also been revived in a new form in a law by the Obama administration in 2009. As one of his first actions as President, Obama announced his intention to close the Guantánamo Bay prison facility, and he ended the abuse and torture of prisoners. But his government has maintained detention facilities around the world and has refused to prosecute prisoners against whom evidence was collected under the previous administration through torture. This means effectively life imprisonment without trial for some detainees.

Muslim immigrants have also experienced a mixed picture of repression and libertarianism. When, soon after 9/11, over 300 Muslim immigrants were confined in the New York City Metropolitan detention facility, they were held well beyond the statutory limit for immigration investigations. Many were physically abused and their religion ridiculed (Turkmen v. Ashcroft, Synopsis and Third Amended Class Action). The Center

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for Constitutional Rights managed to get them out of jail and sued the government and
the city of New York for malfeasance; but after several reversals and re-filings, that
case is still in the courts and the men who were wrongly and abusively confined have
received neither legal nor financial redress.\(^\text{13}\)

The Snowden case is too recent and too dramatic for us to see its long-term results.
But 18 months after the publication of Snowden’s findings in the *Guardian* and the
*Washington Post*, there are already moves to close the holes that he blew in the government’s
surveillance policies:

- The Obama administration quickly labeled Snowden a traitor, revoked his passport, and
sought to have him arrested and brought back to America to be tried. Snowden tried to
get to Ecuador, where he hoped to ask for asylum, but got stuck between planes in
Moscow, where he remains an uneasy guest of the Russian government.\(^\text{14}\)
- On November 11, the director of the FBI, James Coney, opposed Apple and Google’s
decision to enable encryption of people’s iPhones and Android devices and announced
that he wants the Congress to pass a law mandating that all the tech companies should
build “backdoors” into their systems so that the FBI can read emails if the give the
company a court order.

\(^{13}\) [http://ccrjustice.org/Turkmen-v-Ashcroft](http://ccrjustice.org/Turkmen-v-Ashcroft). Also see “For Muslim New Yorkers, a Long Path From
Surveillance to Civil Rights”, *The Nation*, September 29, 2014, at

\(^{14}\) Snowden was granted a temporary one-year resident permit by the Russian government, which was
renewed for three years in August, in the midst of the standoff between President Putin and the western
governments over Ukraine.
• The NSA’s sister agency in Britain, the GCHQ, hit back harder against the tech companies, accusing them of “becoming terrorists’ networks of choice”. Newly-appointed GCHQ head, Robert Hannigan, “said a new generation of freely available technology has helped groups like Islamic State (ISIS) to hide from the security services and accuses major tech firms of being ‘in denial’”.\textsuperscript{15}

\textit{Conclusions}

What can we conclude from this telescopic examination of war, states, and contention in America since 9/11? In some ways, American security practices after 9/11 resembled Scheppele’s « emergency script ». Detainees suspected of complicity with al Qaeda were essentially declared non-persons. Despite the Supreme Court’s rejection, Congress re-instated the Military Commissions. Immigrants were regarded with suspicion and Muslim charities had their funds frozen. The NSA secretly tapped the telephone and internet traffic of millions of citizens. America after 9/11 seemed to be sinking into a « Schmittian » state.

On the other hand, no state of siege was declared, there were no mass arrests of antiwar protesters, no mass expulsions or interning of population groups, no censorship of the press, and the Supreme Court on at least four occasions defended the rights of detainees. This was at least in part the result of the efforts of human rights lawyers, civil society groups, and social movements who were operating within the structures of the infrastructural state.

But these organizations were also limited by their predominantly legalistic strategies in a country in which, under cover of the rule of law, the government expanded its ability to « rule by law». We saw how the DC Circuit Court of Appeals effectively neutralized the Supreme Court’s rulings in favor of the rights of detainees. And when NSA illegal surveillance was first exposed by the *New York Times* in 2005, Congress gave a secret court the power to give blanket approval to the agency’s invasions of privacy.  

Social movements depend on determined movement efforts, on citizens’ support, and especially on the power to innovate in the repertoire of contention to contest government hegemony effectively. This is why Snowden affair is so significant, because it embodies three important challenges to scholars of social movements:

First, it shows how the nature of war is changing from the physical clash of armed forces to the systematic use of cyberpower;

Second, it shows how the American state at war does not depend only on the despotic power of its national security apparatus, but its infrastructural power within civil society;

Third, and most important, it shows how social movements are evolving in the 21st. century. From the fairly coherent movement organizations we studied in the 1960s and 1970sm, to the diffuse and often transnational networks of activists, journalists, documentary film makers, bloggers, and newspapers engaged in what Lance Bennett

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16 [https://www.aclu.org/blog/tag/fisa-amendments-act](https://www.aclu.org/blog/tag/fisa-amendments-act).
and Alexandra Segerberg in their book call « the logic of connective action » (2013), movements have become more dispersed, more fragmented, and more temporary.

Snowden was never part of a classical movement organization; he used his position within the infrastructural power of the American state to expose the abuses of despotic power; he constructed an innovative, flexible, and temporary « movement network » (Diani 2004) whose effects rippled outward to more conventional movement organizations like the ACLU, to conservative lawmakers like Representative Sensenbrenner, and to the internet giants Google and Apple, which installed new privacy encryptions on their devices in response to Snowden’s revelations.17

We who study movements often think that a movement has failed when it disappears after a public campaign. But in this age of legal mobilization and digital communication, because movements face states whose power is dispersed within civil society, they form networks that are often made up of people who have never met and live in different parts of the world, and are often embedded in the structures of civil society. Their successes may not emerge for years, or even for decades. You saw such a slow, halting, and partial success in the legal campaign both here and abroad to punish the crimes of the military regime that came to power in 1973.

But this kind of success takes constant, patient and innovative efforts, because modern states have infinite resources to bend back progress, as we have seen in the post 9/11 efforts to defend rights against the emergency state. Like Albert Camus’ hero, Sisyphus, rolling a stone up the hill only to find that it rolls down again when he reaches the summit, movements continue to seek new and innovative forms for their struggles. As Camus wrote during the resistance to the German occupation of France: “Struggling to the summit is enough to fill the human heart. We have to imagine that Sisyphus was happy.”18 I am not sure that activists against the emergency state are « happy, » but their effectiveness depends on the halting, reversible, and innovative struggles of contentious politics.

Sources:
TABLE 1

Estimated U.S. Participation in February 15, 2003 protests

• New York..................................................500,000
• Los Angeles..............................................200,000
• San Francisco..........................................250,000
• Seattle......................................................50,000
• Rest of United States.........................1,500,000

(Verhulst 2010:15-16)
TABLE 2

Growth in ACLU and CCR, 2001-2012

<table>
<thead>
<tr>
<th></th>
<th>American Civil Liberties Union</th>
<th>Center for Constitutional Rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Members</td>
<td>285,000 460,000</td>
<td>--  --</td>
</tr>
<tr>
<td>Funding (in millions)</td>
<td>55.7 105.7</td>
<td>2.1 8.2</td>
</tr>
<tr>
<td>National staff</td>
<td>170 338</td>
<td>14 51</td>
</tr>
</tbody>
</table>

Source: Tarrow (2015)
### TABLE 3

**Political Activism and party Identification of U.S. and Italian peace protesters, February 2003**

<table>
<thead>
<tr>
<th></th>
<th>U.S.</th>
<th>Italy</th>
</tr>
</thead>
<tbody>
<tr>
<td>% voting in last national elections</td>
<td>51</td>
<td>83</td>
</tr>
<tr>
<td>% Active Party Identifiers</td>
<td>23</td>
<td>10</td>
</tr>
<tr>
<td>% identifying with Democratic party</td>
<td>91</td>
<td>49</td>
</tr>
</tbody>
</table>

(Rudig 2010)
FIGURE 1

Location of the “Doc” Cases in Regime Space (p. 80)

Source: McAdam, Tarrow and Tilly (2001)
FIGURE 2

Mentions of “Contentious Politics” in Books in English. 1990-2008

Source: Ngram analysis.
FIGURE 3

Citations to Carl Schmitt in American Legal Scholarship

Source: N-Gram analysis
Figure 4  Geographic Allocation of Military Contracts, 1966

(Thorpe 2014, p. 16)
FIGURE 5: Geographic Allocation of Military Contracts, 206 (Thorpe, 2014:17)
FIGURE 6

Public Opinion on Bringing the Troops Home (Suh and Strang, 2014)

SOURCE, SUH AND STRANG, 2014.
FIGURE 7

Size of National Antiwar Protests, 2002-2012 (Heaney and Rojas 2015)