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A spy court too cloaked in secrecy

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OPINION

One of the most powerful courts in the United States, the Foreign Intelligence Surveillance Court, is cloaked in unnecessary secrecy. It authorizes panoramic surveillance programs that can have profound implications for the rights of millions of Americans, but many of its significant decisions have been withheld from the public.

The three of us have different views about how expansive the government's surveillance powers should be. One of us, as solicitor general of the United States, defended the broad authority granted to federal officials to track and intercept communications under the U.S.A. Patriot Act; the other two have

been among that law's most active critics. But we agree about one crucial point: The needless secrecy surrounding the surveillance court is bad for the court, the intelligence agencies and the public — and it is also unconstitutional.

We said this to the U.S. Supreme Court in a petition filed in April on behalf of the American Civil Liberties Union, arguing that the public should have access to the surveillance court's decisions. And in briefs filed with the Supreme Court last week, many others — including former intelligence officials, civil society groups and a major technology company — reinforced that point.

Congress created the surveillance court in 1978 after a congressional committee found that the intelligence agencies had abused their surveillance powers in ways that violated Americans' rights and jeopardized our democracy. The court was charged with overseeing certain kinds of national security surveillance. It authorized a few hundred wiretaps a year.

But after the Sept. 11 attacks, Congress expanded the government's surveillance power. New technology also made possible more sweeping and intrusive forms of surveillance. Today, the court is frequently asked to evaluate surveillance programs whose scale is staggering, and its opinions in such cases are of immense consequence for Americans' rights.

For nearly a decade, for example, the court authorized the government to collect records on most phone calls made or received in the United States, COLE, PAGE 10

The New York Times publishes opinion from a wide range of perspectives in hopes of promoting constructive debate about consequential questions.



Daniel Tang, who spent time in prison for his role in Hong Kong's pro-democracy protests in 2019, struggles with cynicism and meaning in a city that suddenly seems unfamiliar.

PHOTOGRAPHS BY LAM YIK FEI FOR THE NEW YORK TIMES

Democracy activists' dark days

HONG KONG

Hong Kong prisons are full of young protesters, feeling alone and disillusioned

BY TIFFANY MAY AND PAUL MOZUR

A half-year after he got out of prison, Daniel Tang has made a habit of going back. He waits in spare, crowded corridors. He greets familiar faces among the fellow visitors and the guards. He brings books, postage stamps, writing paper and packets of M&Ms.

Mr. Tang is visiting people like him who were imprisoned for their role in the pro-democracy street protests that rocked Hong Kong in 2019. He travels three hours, round-trip, for a 15-minute chat through a thick plate of glass, sometimes with a total stranger. He summons a cheery, chatty demeanor, when he feels anything but.

"You owe them your best face," he said. "If you're not feeling right, don't even bother going."

Mr. Tang and many of those he meets with represent a new breed of convict in Hong Kong: activists who opposed the Chinese Communist Party's growing power in the city. This group — includ-



The 2019 protests prompted Beijing to crack down on the former British colony, including a campaign of mass arrests and the imposition of a tough national security law.

ing college students and white-collar professionals — rose up two years ago in a historic campaign of public disobedience that led to clashes with the police on the streets and focused the world's attention on the future of the Asian financial capital.

For many, that campaign has ended in courts and jails, crushed by tough new

laws imposed by Beijing, mass arrests and the hazards of the coronavirus. Now, with dim job prospects, a fraught political future and the unending threat of another arrest, those protesters are emblematic of the uncertainties facing the city's stricken democracy movement.

Over 2,500 people are being pros-

ecuted on various charges for their roles in the protests, according to the police. The authorities are still working through a backlog of potential prosecutions of the more than 10,000 arrested between June 2019 and March of this year.

Nearly 300 have been sentenced to prison as of the end of last year, a sizable number for a city with an incarcerated population of about 7,000 people. Beijing's imposition last year of a national security law gives prosecutors greater powers to target even more.

Many of the activists are contemplating a future in exile. Others struggle to stay committed to the cause for which they sit behind bars.

"Being sentenced to jail fractures people," said Alex Chow, a 30-year-old activist who spent a brief time in jail for his role as a leader of protests in 2014, a precursor to the 2019 demonstrations.

He now lives in exile in the United States.

"It smashes your personal aspirations," he said. "It might change your life trajectory. You're locked in a cell for months or years. That disrupts everything. No one can really prepare for it."

It's still not fully clear how prison will affect the movement, Mr. Chow said. Many will be dissuaded by escalating punishments. A charge for illegal as-

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Kingmaker maneuvers to take the crown

JERUSALEM

How Naftali Bennett leveraged modest power for a shot at leading Israel

BY ISABEL KERSHNER

The morning after Donald J. Trump's victory in the 2016 presidential election, Naftali Bennett, the energetic leader of a relatively small Israeli pro-settlement party, exulted before an audience of foreign reporters in Jerusalem. "The era of a Palestinian state is over!"

Now, Mr. Bennett, 49, a former high-tech entrepreneur who insists that there must never be a full-fledged Palestinian state and that Israel should annex much of the occupied West Bank, is poised to become Israel's next prime minister, replacing Benjamin Netanyahu.

Mr. Bennett, a former ally of Mr. Netanyahu often described as more right wing than the prime minister, is the independently wealthy son of American immigrants.

He first entered the Israeli Parliament eight years ago and is relatively unknown and inexperienced on the international stage, leaving much of the world — not to mention many Israelis — wondering what kind of leader he might be.

Shifting between seemingly contradictory alliances, he has been called a right-wing extremist, a pragmatist and an opportunist.

But in a measure of his talents, he may have pulled off a feat that would be extraordinary even by the perplexing standards of Israeli politics: He has potentially maneuvered himself into the top office even though his party, Yamina, won just seven of the 120 seats in the Parliament.

A canny and ambitious beneficiary of Israel's prolonged political morass, Mr. Bennett leveraged his modest but pivotal electoral weight after the inconclusive March election, Israel's fourth in two years. He entered coalition talks as a kingmaker and emerged as the one set to wear the crown.

In a career full of paradoxes, Mr. Bennett, once a top aide to Mr. Netanyahu, 71, played a crucial role in assembling a coalition that could topple his former boss, Israel's longest-serving leader. As a result, Mr. Netanyahu could be brought down — for now, at least — not only by his longtime rivals on the center and left of the political spectrum but also by someone considered even more hard-line.

Mr. Bennett has long championed West Bank settlers and once led the council representing them, but he has never been a settler himself. He lives in Ra'anana, an affluent town in central Israel, with his wife and four children. He is religiously observant — he would be the first prime minister to wear a skull-

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Lamenting the loss of Berlin's cultural soul

BERLIN

Canadian music director of Volksbühne theater has embodied its radical spirit

BY A.J. GOLDMANN

Not long ago, Sir Henry stood on the main stage of the Volksbühne theater in what was once East Berlin and conducted the cosmos.

In "Quarantine, For Solo Human," Sir Henry, whose given name is John Henry Nijenhuis, did so as part of an interactive musical installation that sent a planet spiraling through a computer-animated universe using motion-sensor technology.

As he gracefully waved his arms, a delicate celestial choreography emerged. Earth hurtled through a galaxy that expanded and shrank at his command. His gestures also controlled the cosmic soundscape, adjusting the



"We had a job to explain socialism to the encroaching West in Berlin," said John Henry Nijenhuis, who has been the music director of the Volksbühne for nearly 25 years.

pitch and volume of a "space choir" that harmonized to a Bach prelude playing from a MIDI sequencer.

"Quarantine," which streamed on the Volksbühne's website during the pandemic lockdown last year, was the musician's first solo work on the main stage of the theater where he has worked as music director for nearly a quarter-century.

"The first six months of Covid were a blessing because I could just hole up in my apartment and conceive," the 56-year-old Canadian said. His interactive installations fuse his passion for music with his interest in computer programming, a lifelong pursuit since his studies in the 1980s at the University of King's College in Halifax, Nova Scotia.

On a stormy spring evening, I met Mr. Nijenhuis at the back entrance of the closed Volksbühne. Wearing an elegant brown herringbone overcoat, he ushered me through a labyrinth of backstage stairways to the theater's Red Salon, a nightclub-like venue that has been off limits since the pandemic began.

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PAGE TWO

Lamenting the loss of Berlin's cultural soul

BERLIN, FROM PAGE 1

Balancing himself precariously on a stool, he filled two glasses with water from the sink of the long-disused bar. He wore a black dress shirt unbuttoned at the top; his shoulder-length gray hair was pulled tightly back in a high ponytail.

Seeing him so comfortable and at home in the empty theater should hardly have come as a surprise. Few people at the Volksbühne have been here longer than he has.

For at least a decade after the Cold War ended, the Volksbühne was arguably the most radical and artistically daring theater in Europe. As music director, composer and occasional actor at the playhouse since 1997, Mr. Nijenhuis has contributed to Berlin's artistic flowering while living through dynamic changes that have redefined the city — and not for the better, in his opinion.

He savors his memories of post-Cold War Berlin, a wild, bohemian outpost of artistic experimentation spiced with a vibrant clash between East and West.

Mr. Nijenhuis unabashedly embraced the East German revolutionary spirit at the theater. "We had a job to explain socialism to the encroaching West in Berlin," he said.

"At the Volksbühne, you could always smell if the director wanted to change the world," he added. "And if they didn't want to change the world, you'd say to yourself, 'you might as well be in the West End.'"

The theater "was a bulwark against unthinking, invasive forms of capitalism," he said.

To his regret, that atmosphere evaporated over the years. "Nowadays, the reputation of Berlin is as a party place," he said.

Nevertheless, few, if any, other North Americans have so decisively left their mark on Berlin's cultural scene in the heady years that followed reunification. Mr. Nijenhuis has worked on more than 50 productions in his nearly 25 years at the Volksbühne.

"John is a mastermind of music," said the director David Marton, who has worked with Mr. Nijenhuis since an acclaimed chamber version of "Wozzeck" in 2007. In an email, he suggested that Mr. Nijenhuis is "perhaps not recognized enough because he works mainly in the theater and 'theater music' doesn't get much credit."

Mr. Nijenhuis was born in 1964 in Newmarket, Ontario, to Dutch parents and grew up in Montreal and Halifax,



The temporarily closed Volksbühne in Berlin, where John Henry Nijenhuis has been music director, composer and an occasional actor since the late 1990s.

where his father worked for British Airways. After college, he spent a decade in Toronto, developing a style of piano he described as "two-handed mash-ups of, for instance, 'Stairway to Heaven' with 'Putting on the Ritz,' or Ravel's 'Boléro' with 'Take Five.'"

But professional opportunities for musicians in Toronto were limited.

In 1996, he was invited to perform at an arts festival in Berlin. The venue in Prenzlauer Berg, in the former East, didn't have a piano, so he had to make do with a living room organ.

The curious experience gave rise to his nickname, which is a tongue-in-cheek homage to a

'60s lounge organist, Sir Julian.

Although his festival appearance did not go as planned, Mr. Nijenhuis soon began working at the nearby Prater, a smaller venue run by the Volksbühne. His all-around musical profile, his knowledge of Kurt Weill and Prokofiev, but also Fats Waller and pop and rock, made him sought-after in the culturally omnivorous and experimental milieu of '90s Berlin.

"You could just about walk out the door and find yourself at a happening," he said of the moment. "There were many of those ruined houses, bomb-wrecked houses that were housing ex-

perimental music goings-on."

That summer he traded the skyscrapers of Toronto for the coal-heated tenements of Prenzlauer Berg. If Berlin offered him a new home, the Volksbühne became his new creative family.

Back then, the theater was firmly under the direction of Frank Castorf, a provocateur who served as artistic director from 1992 until 2017. Mr. Castorf had a fondness for making mincemeat out of the classics in long, demanding evenings that were designed to shock theatergoers out of complacency.

But as the city gradually evolved into the national capital and headquarters to

many of Germany's biggest corporations, the milieu inevitably shifted.

By the early 2000s, the Volksbühne was struggling with its ideological focus, and as its productions became increasingly self-referential its audience began to drift away. And while the actors and directors were hurling Marxist provocations into the audience, the city was quickly succumbing to the capitalist forces their theater was meant to defend against.

"I was ensconced in a magnificent family," Mr. Nijenhuis said. "We were all on the same page. I had a job to do, there were fiercely creative people and I lost

track a little bit of what was outside this building."

He added: "It was very easy to fall into a peaceful slumber and wake up when the city was gone."

While Berlin continues to enjoy a free-wheeling reputation, Mr. Nijenhuis believes the city has lost much of its creative soul. "The change has been from an adventuresome, very daring town with adventuresome and daring artworks into an irretrievably bourgeois pleasure palace," he said.

As Berlin settled down, so did Mr. Nijenhuis. In 2015, he bought an apartment in Prenzlauer Berg and married the American poet Donna Stonecipher.

Increasingly, Mr. Nijenhuis has found creative fulfillment away from traditional productions, through programming and performing interactive musical installations like "Quarantine." For the past 15 years, he has also collaborated with the German author and filmmaker Alexander Kluge, for whom he has scored movies and accompanied in live performances.

"The change has been from an adventuresome, very daring town with adventuresome and daring artworks."

In one recent appearance, he tinkers around on a grand piano singing arias by Monteverdi and Purcell as Mr. Kluge, a towering figure in German culture, and the American poet and novelist Ben Lerner read their works.

Mr. Nijenhuis is one of only two ensemble members at the Volksbühne with tenure (it is rare for performers in Berlin to stay at the same theater for the qualifying 15 years and was rarer under Mr. Castorf, who had a penchant for firing people). Nevertheless, the recent era of managerial and artistic upheavals at the theater has been trying; by his own admission, he was "put in the broom closet" for two years by an artistic director who did not value his contributions.

Mr. Nijenhuis's most recent appearance onstage, in a production of "The Oresteia" in October, showed what can happen when his talents and eclectic tastes are given free rein. The inspired musical selections ranged from Richard Strauss to Tom Lehrer.

"Had I stayed in Toronto," Mr. Nijenhuis leaned in to tell me. "I would have probably become a bus driver."

Headless skeletons reveal Rome's strict rule in Britain

LONDON

BY JENNY GROSS

British archaeologists have uncovered more than a dozen decapitated skeletons in a discovery that, they said in a new paper, sheds light on how the ancient Romans used capital punishment as their grip on Britain slipped in the late third century.

Archaeologists at the Cambridge Archaeological Unit, a company that provides archaeological services, uncovered three small Roman cemeteries at the edge of a farm in Cambridgeshire, 70 miles north of London, in excavations between 2001 and 2010. After studying the remains, they found that 17 of the 52 skeletons were decapitated, a much higher rate than in other Roman cemeteries, according to a research paper published last month in the journal *Britannia* by Cambridge University Press.

Isabel Lisboa, the archaeologist who led the excavations, said the people buried in these cemeteries were most likely decapitated as punishment for crimes. Scholars have also explained Roman beheading practices with other theories including the execution of enslaved people, human sacrifices, fertility rituals, military trophy taking and post-mortem punishment.

Chris Gosden, a professor of European archaeology at the University of Oxford, said that the late Roman period had an increase in crimes that would merit death. Some of the reasons for executions, he said, could include violence within and between communities, murder, stealing and religious crimes, like desecrating shrines.

"Any hint of insurrection against the Roman state would've been dealt with extremely violently," he said.



Seventeen decapitated bodies from the third century were found in graves in Cambridgeshire, England. The number was much higher than in other Roman cemeteries.

Though an emperor campaigned in Britain early in the third century to strengthen the occupation, Roman control crumbled in the decades that followed. On the continent, leaders vied against each other — 238 was the so-called Year of the Six Emperors — and in Britain they faced rebellions.

The positioning of the skeletons in the Cambridgeshire cemeteries suggested that the people were alive when they were beheaded and that they were decapitated with single blows from behind delivered by a heavy blade, Dr. Lisboa said. Cuts on two of the bodies showed extreme violence, with the body of one skeleton showing chop marks on its jaw and the removal of an ear.

Some of the skeletons had deteriorated to such an extent that they looked like dust. But technological advances made over the last decade, including types of DNA analysis and tooth enamel analysis, led researchers to conclude that the Romans may have recruited people from different regions, including Scotland and the Alps, to work on the farm in what is now Cambridgeshire, Dr. Lisboa said.

Researchers believe the farm was a specialist site that provided grain for the Imperial Roman Army because of a large granary, she said.

Several of the skeleton heads were placed by the feet, which may have been done to stop the bodies' spirits from rising, according to the research paper.

The location of the bodies within the cemeteries, next to people who were not beheaded, may be explained by a Roman law that family and friends of executed criminals could request the return of the bodies for burial. The decapitated bodies were also buried with miniature, colorful ceramic pots around their heads, including bowls, pots and flasks, in line with local traditions at the time.

Hong Kong democracy activists' dark days

HONG KONG, FROM PAGE 1

semply once meant a fine or community service, he said, but now could mean prison.

"This is one of the intended outcomes produced by the national security law," he said. "They want to cut you off, to smash your connections and the solidarity and spirit of the movement."

The crackdown has swept up young people as well as veterans. Those sentenced to prison so far include Joshua Wong, Agnes Chow and Ivan Lam, young leaders of the 2014 protests. Wong Ji-yuet, 23, and Owen Chow, 24, activists who participated in a primary election that was organized by the pro-democracy camp, are awaiting trial in solitary confinement after they were charged with endangering national security.

For many young people in jail, the sentences have redrawn their lives.

Jackie Yeung, a 23-year-old university student serving a three-year sentence, said she had abandoned the "typical ambitions" she used to harbor — getting a good job and an apartment in a family-friendly district.

Ms. Yeung, who pleaded guilty to hiding more than 100 Molotov cocktails in a residential unit, said that if the protests had taught her to be less selfish, prison had taught her to be more practical. When she was first sentenced, she felt depressed and lethargic. Being removed from her loved ones and the protest movement took its toll. She missed her mother.

To survive, she threw herself into self-improvement. She is learning basic Korean from a language textbook and teaches English to a small group. "Prison is the ideal place to learn a language," she said in an interview during a prison visit. "I don't want to waste my time here because I know there are a lot of people waiting for me outside."

Even so, guilt plagues her. "My friends tell me that my bedroom door at home is always closed, because my parents can't bear seeing the room empty," she wrote in a statement ahead of her sentencing. "And I have no way of comforting them through the glass in the visitation room in prison."

She dreams of opening up a small business importing Taiwanese pineapples after she and a Taiwanese cellmate are released. With the profits, she would support other young people by helping to pay their legal fees and living expenses. "To do anything, you need money," she said.

To make things easier on prisoners, Mr. Tang and some other activists have banded together to provide support. They write letters and gazettes to update people with protest news and raise funds to pay for better meals in jail while protesters await trials.

Mr. Tang frequently sees Ms. Yeung. During one visit to her prison near the



PHOTOGRAPHS BY LAM YIK FEI FOR THE NEW YORK TIMES



Top, Daniel Tang, at center right, is among a group of former jailed activists who write to those who are still behind bars. Above, seat passes for court sessions. Mr. Tang attends many of the court hearings for fellow protesters to keep their spirits up.

border with the mainland city of Shenzhen, he brought pens and stamps. He left the stamps, but was unable to give her the pens, as it would have exceeded her monthly allowance of two.

For all of his dedication, Mr. Tang, who spent more than six months imprisoned after pleading guilty to arson charges, says it doesn't feel like it's enough.

"Many Hong Kongers have moved on and moved away and don't think about

how there is a group of people sitting behind bars for the movement we all fought for," said Mr. Tang, who is in his late 30s. "It seems many have forgotten."

Far from radicalizing during his time on the inside, Mr. Tang now struggles with cynicism and meaning in a city that suddenly seems unfamiliar. He has been disheartened by the protest movement's stagnation and by the waves of migration out of the city. The camarade-

rie of protest has been replaced by dread of ever more targeted arrests. He sees it all as an abandonment of values and believes that escape is a privilege unavailable to many.

Mr. Tang's protester friends from prison also seem to be moving on. A group that they kept, called the "Lai Chi Kok Prisoners," after the facility where they were detained, still lights up occasionally with holiday greetings and vague laments. But few want to talk politics.

Yet, for Mr. Tang, there is no road back — not that he'd take it. His former employer was understanding but let him go when his absence stretched on. He has been unable to access his life savings, he said, after his bank account was frozen over automated donations he made in 2019 to a protester bail fund that police had placed under investigation.

He has applied for managerial jobs like those he had worked in the past, only to be turned away because of his criminal record. Now, he's mulling applying for a taxi license or working in construction.

He still faces four charges related to the protests that were filed just days before his release from prison. The thought of officers at his door has kept him away from the apartment he shares with his mother. He tells her he now works a night shift, and she doesn't press him.

"I'm really tired," Mr. Tang said. "The government has left us no room to resist and nowhere to go."