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Punishing the Media: The Fantasies of the CIA and William J. Casey

By Dr. Binoy Kampmark
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"Unauthorized disclosures of classified information have become a cancer which undermines presidential authority to conduct foreign policy, our national security process, and our intelligence capabilities." – William J. Casey, Director of the CIA, Nov 14, 1986

It's the perfect dream in a nightmarish context: how do intelligence services get around the problem, in a liberal democracy, of punishing outlets that reveal classified information? The issue, when it reaches the stiff, paranoid official in a home ministry (domestically sounding, if British; more stately, if American) drives the establishment to distraction.

Laws, having being put in place to supposedly protect and encourage the dissemination of information, may well be circumvented. Measures protecting the press need to be blunted. Recipients, in short, need to be rounded upon. The big question for those in intelligence is how.

The intelligence chief, given the nature of the work, has little concept of balancing the role of the media with actual, tangible security. The media is the natural enemy. Closed information systems defy chatter and open discourse. The aim is starvation, concealment and vanishing. Information is to be hidden with officiousness, forever justified by the interests of national security. Whether it affects national security never actually *matters*.

Intelligence services are, to that end, motivated by different ends to the journalistic scribbler and the information warriors such as WikiLeaks. Loose talk is dangerous; words are to be used sparingly. Their incentive is to discharge their mission as far as possible behind the cloaking veil and in the dense shadows, to push that delicate envelope into the most peculiar of bureaus.

Former Central Intelligence Agency Director William J. Casey provides a textbook response for the agency and the security high priests, ever venting on a balance between the media and intelligence activities, but coming down on the side of those who would punish disclosure. He must, by way of propriety, pay homage to the First Amendment, that nasty little limitation that does wonders to frustrate the spooks and the bureaucrats who relish secrecy more than parenthood.

In an address to the Communications Law Conference of the Practising Law Institute in November 1986, Casey gives us a very contemporary, salient view about intelligence operations and relations with the media.

He noted how he cherished "the First Amendment and admire the diligence and ingenuity of the working press." Too often, he had been unfairly accused of wanting to "demolish the First Amendment trying to muzzle the free press."

There were matters that the press did acquit itself well on: the exposure of "waste, inefficiency, and corruption". (Vide the very same terms used by President-elect Barack Obama in 2008.) People, he claimed, needed to be "well informed about events around the world as well as the activities of their democratic government."[1] He spoke to the press as a friend, in fact, a friend and supporter of 40 years standing.

Having gone through the course of such conjured admiration, matters become serious. His work called; his duties taxed. "No one," he exclaimed, "can tell a publisher what he must print. On the other hand, Congress has enacted legislation which makes it unlawful to disclose or publish certain categories of information and the media, like everybody else, must adhere to the law."

Casey's hunt for justifications proves unrelenting. The US Supreme Court in the Pentagon Papers case may well have ruled against the Nixon administration in using prior restraint, null before the First Amendment, but in the judgements of Justices Douglas and White was a comforting view supporting "the law imposing criminal penalties on the publication of information in communications intelligence."

Enthusiastically, Casey spoke of the Morison case, one where espionage was broadened with ease and confidence, spreadeagled across the security establishment to punish unauthorised disclosures. Such statutes should not, it was suggested, be limited in the "classic" sense to the usual stock trade "disclosures to foreign agencies" and such; these might well be applicable to "unauthorized disclosures to the press."

Samuel Loring Morison, a former naval intelligence analyst, had supplied secret photographs featuring a Soviet ship under construction at a Black Sea shipyard to Jane's in August 1984. In addition to furnishing the material to the British military journal, Morison was also charged with possessing classified information at home.

The vigilant prosecutor in that case, Michael Schatzow, seemed to trill a tune that would be incarnated in other prosecutions during the Obama administration, most notably that of Chelsea Manning.

> "I would hope that people who are tempted to give out, in an unauthorized fashion, information relating to the national defense, stop doing it."[2]

Forget civil disobedience, and forget the noble calling of whistleblowing.

According to Casey, it was "bunk" to make any issue about Morison being a spy. There was only one thing that mattered, one pivotal point that determined guilt: "violating a section of the law which prohibits the disclosure of classified US government information to authorized persons."

He gathers his aim, and directs his opinion against the very thing that he supposedly endorses: a functional, effective fourth estate. "What is needed is a bill making it a criminal offense willfully to disclose classified information to persons not authorized to receive such information." Classification had to have meaning, and for that to make sense, the fourth estate had to lose its own sense of purpose, its guiding principle. All this, before Manning, before the beavering spectacular of WikiLeaks, before the Internet.

Dr. Binoy Kampmark was a Commonwealth Scholar at Selwyn College, Cambridge. He

lectures at RMITUniversity, Melbourne. Email: bkampmark@gmail.com

Notes

[1] https://www.cia.gov/library/readingroom/docs/CIA-RDP88G01116R000500550006-1.pdf

[2] http://www.nytimes.com/1985/10/18/us/naval-analyst-is-guilty-of-espionage.html?mcubz=3
