

August 18, 2002

Dear Friends,

*The New York Times* this morning published an article revealing that “A covert American program during the Reagan administration provided Iraq with critical battle planning assistance at a time when American intelligence agencies knew that Iraqi commanders would employ chemical weapons...”

The publication raises several issues of great importance for all Americans. And, indirectly, for others.

First and most obvious is that, despite the near silence on our earlier involvements in both Iraq and Afghanistan, it should now be clear that we played crucial roles in promoting activities in both countries that we now decry and apparently plan to use as excuses for attacking our former surrogates and allies.

The story on Afghanistan is, by now, known fairly completely to anyone who has read the press or any of the score or so books on the Afghan-Soviet war: we provided money, arms, training and other forms of logistical support to the people who became the Taliban and al-Qaida. This can no longer be doubted. Of course, the past is past. We cannot undo it. What is significant is not only what we did *then* but what we are doing *now*: in a number of countries, we are embarked upon programs involving governments with whom we have little in common. We appear never to question the aims and attributes of those who appear, even temporarily, to be useful to us. In the past, this has put us in bed with some very unsavory characters and seems well on the way to doing so again. Playing fast and loose *tactically* with our principles is often very dangerous *strategy*. However costly a lesson this has been, we have rarely (and usually only after the fact) taken it to heart.

On Iraq, the story of our close involvement with Saddam Husain has been longer in coming out. As a Patrick E. Tyler’s article in *The New York Times* makes clear, aspects of the story there are still being denied or toned down. Yet even what little has been revealed is disturbing. Let me add a detail: I happened to be in Iraq during one phase of the Iraq-Iran war and had confirmed for me by our embassy staff what I had already heard, namely that we were supplying Saddam Husain with satellite photos showing Iranian troop dispositions so that his military commanders would know precisely where to attack and what forces and equipment each attack would face. Without our active help, Saddam would possibly have lost the war with Iran and certainly would have been unable to attack Kuwait.

Although we have long denied or treated as secret our involvement, as Mr. Tyler points out, we made it all possible for Saddam. He also points out that we did this even when we realized that he was doing the very things, including using poison gas, for which we now excoriate him.

These things are, as I say, the obvious and even superficial aspects of the events; what lies behind and underneath them is what concerns me here and is, I believe, far more significant for our country and for the world. It is that there is an inherent conflict between secrecy and appropriate activities. Even more bluntly, there is often a conflict between secrecy and intelligent activity.

The obvious question that must arise from our experience in Iraq and Afghanistan (as it should have from our involvement in Vietnam) is “from whom is such information as our ‘covert’ assistance being withheld by government secrecy?”

Take first our provision of crucial military assistance to Saddam Husain. Was secrecy employed against the Iraqi government? Obviously not. If anyone knew about information being provided to it, it would be the recipient. The Iraqis set up a special office to receive and disseminate the information we supplied. Keeping that aid secret today can hardly keep them from knowing that we gave it to them. The only groups who might not know are the Persians (although this is highly doubtful) and the American public. In effect, it is the American public that is treated as “the enemy.”

This is not a unique example. Of the many I could cite, allow me three others:

First, in Egypt. Years ago, when I got to know Egyptian President Gamal Abdul Nasser, I found him bemused by the hectoring of our ambassadors. Repeatedly they lectured him on proper behavior in international relations: he should cut out the “dirty tricks” in which his espionage agents were engaged in other countries. Of course he should have. Our ambassadors were right. Nasser’s espionage actions, even when bungled, were not only morally and legally wrong, but, to use the then current expression, were also “counterproductive.” So why was Nasser perplexed? I think the answer is inescapable. He knew that we were engaged in precisely the same sort of actions. He knew that we tried to have him (and at least two other heads of state) killed and had recently acted in concert with the British to overthrow a duly elected government in another country. So why did we hassle him? As he tried to figure it out, I believe he concluded that either 1) we thought him a fool, 2) our ambassador was a fool 3) we treated the ambassador as so unimportant in our setup that he was not informed.

Again the question: who was the information about our activities secret from? Nasser knew all about it. He had thwarted the plot and was alive. Those in his government who needed to know, knew all about it. Other heads of state, diplomats, intelligence and security people certainly knew. The Russians and Israelis knew. So who was “the enemy,” the person or group from whom the information was being withheld? Alas, it was our poor ambassador. He was put in a position that made his job virtually impossible and made him appear a fool. And, in the larger sense, it was the American public that was not to know that our government was engaged in precisely those “dirty tricks” we abominated in others.

Second, consider Pakistan. At the end of the Eisenhower administration and during the Kennedy administration, the American government was engaged in a large-scale program of developmental aid. Most of this program was handled by the Department of Defense because each administration found that it was easier to get Congress to allocate money for “defense” than for “development.” But a substantial amount was also handled by the newly renamed ICA which became AID (the Agency for International Development) but remained virtually the same group of people and the same organization.

ICA/AID had then about 18,000 employees who included a number of men and women with substantial experience in analyzing national economies and planning development projects. Those working on Pakistan came up with a detailed plan that called for a certain allocation (I have long since forgotten the exact amount). When this was presented for approval “at the highest levels,” the AID Administrator, my good friend Fowler Hamilton, was told that the plan itself was acceptable but that the amount of money allocated to achieve it was wrong: the amount to be allocated was more than double the figure the AID experts thought Pakistan could “absorb.” The AID officials were not told why their figure was unacceptable; only that it was. The reason had nothing to do with development. We were paying the Pakistanis for letting us fly U-2 aircraft from Peshawar and maintaining there and elsewhere listening stations to eavesdrop on Soviet Central Asia (and on the governments of South Asia).

Again, from whom was this secret? Pakistan of course knew precisely what we were doing in Peshawar and where the U-2s were flying. So did the Soviet Union. But, astonishingly, not a single officer in the entire AID organization, including the director (who ranked as an under secretary of state) was “cleared” for this information. By 1962 a few speculative and not very precise articles had even appeared in the American press. The impact on the morale of the AID agency and on its ability to influence Pakistanis more efficiently to use our money can be imagined. The cost of secrecy was high and the gain from employing it was minimal if that.

Third, during the same period, we maintained approximately 23,000 Americans in Turkey on a number of intelligence-gathering sites. Their job, also, was to monitor radio communications from the Soviet Union, its allies and other governments. I visited several of these sites during the time I was head of the interagency task force preparing the U.S. National Policy Paper on Turkey. At one site, Trabzon on the Black Sea, a Soviet “trawler,” that is, a ship covered with antennae, dishes and wires, was anchored just off-shore. It was listening to what we were listening to. The Russians knew precisely what we were doing. Who did not? The answer was our Turkish allies did not.

When we established our string of bases and began to bring in the thousands of Americans who manned them, the Turks, proudly asserting their membership in the NATO alliance, generously allowed us complete extraterritoriality. We ran the bases and policed them as completely as we would have had they been in Nevada or Texas. But, over time, the Turks began to be curious. They got to know roughly what we were doing and wanted to act as our full partners in the endeavour. Also, inevitably, a number of trifling incidents piled up that riled them. All through the upper echelons of the Turkish

government, the question arose: did we not trust them, our allies? Our answer was no, we did not. Not a single Turk, not even the president of the country, was allowed in our bases. The consequence was that, as annoyances increased, we came close to losing the whole arrangement.

I suppose we could have told the Turks that they were not the only ones we did not trust. We did not trust even senior American officials. I was astonished to find that the then “desk officer,” the man directly responsible for the day-to-day management of Turkish American relations in the Department of State, was not cleared. Officially, at least, he did not even know that we had 23,000 Americans in Turkey, was not informed of the program and so could not adjust his actions accordingly.

I believe that these three examples, and many more I could cite from my personal experience, show that secrecy promotes inefficiency, bad morale, distrust and, on occasion, can jeopardize the very operation it was designed to protect. So, what is its purpose or justification? I suggest the following answers:

First, let us be clear exactly what secrecy is. Secrecy is nothing but a delaying action. Its only benefit is time. Sooner or later, whatever is being hidden will “leak.” Then whatever was covered will be exposed. If they hope that their actions will always be hidden, governments and officials will be tempted to do what they otherwise would shun; if their actions are stupid, disreputable, immoral or illegal, the very act of discovery will make them appear even worse.

Having admitted that, I also assert that occasionally there is a value in withholding information for a limited period of time. Even Woodrow Wilson, in advocating open diplomacy agreed that there was a value in confidentiality in deliberation. In my own experience, I certainly agree that during the Cuba Missile Crisis, discussions in Washington about what our response should be to the placement of Soviet battle units in Cuba, discussions that were informed by overflights of Cuba, should have been, and were, “tightly held,” that is, withheld for a time. Keeping our cards face down until we had decided what to do was justified. The only way to guarantee confidentiality in that period of time was drastically to limit the number of people “in the know.” I have never heard a precise number but I believe our entire government was effectively reduced during that week to about 30-50 people.

But, second, secrecy spreads in government like an oil slick on water. With little justification, we extend what is often a reasonable approach to confidentiality to a wide area.

One reason for the spread is really rather trivial and personal: to write something that one can label “top secret” gives one’s work and oneself a certain cachet. There was a joke during my time in government that no one read anything below the level of secret. Papers that were marked “unclassified” were beneath contempt. The Secretary State set a sort of style in this regard. When the director of intelligence was briefing him one morning on Cuba, he told the Secretary that by far the best analysis was in that morning’s *New York Times*, but Rusk brushed that aside to ask for the highly classified but less well

informed materials. I was as guilty as anyone else in this regard despite the caustic remark of an old hand who was trying to caution me. I had been very impressed that a consultant, a colleague of mine at Harvard, was writing reports that were very highly classified. When I mentioned this, my friend, the old hand, laughingly commented, “if I wrote trash like that, I would certainly want it kept secret too!”

More serious examples can be brought forward: during the Missile Crisis, we treated our overflights, themselves, as secret although anyone in Cuba looking up could hardly fail to notice an F-101 or F-106 streaking past so low the pilot could almost be recognized. The same thing was true in Vietnam where I saw daily photographs of the Ho Chi Minh trail. Did the Vietnamese never look up? Did they not know how to run their radar? Did they not know what was going on there on the ground? Hardly likely. From whom were we keeping the flights secret?

On the Soviet Crimea, we and the British sent daily flights to probe radar defenses. I watched one RAF mission on radar from an American base in Turkey. By the time I saw it, these probes were so common that tacit “rules of the game” had evolved: as long as our aircraft kept out at sea beyond a mutually understood number of miles, the Russians did not scramble their fighters; if the intruders came closer, they did.

As the then chief of the Bureau of Intelligence and Research of the State Department, Roger Hilsman, commented ironically, we performed a useful service for the Russians: as we found “holes” in their radar cover, they could quickly plug them. Yet, the fact that we were doing this (whether for us or for them) was treated as a “code word” (beyond-top-secret) operation. Obviously, the Russians knew all about it. From whom was it secret? Only the American public was not informed.

Over mainland Russia, as we now know, we had for years intruded with modified bombers (often B-47s). We even built a special aircraft (the B-58) that could fly higher than Soviet defenses, but before it could become operational, the Russians had built a special missile that could reach it (the SA-2). We then upped the ante with the U-2. Super-secret it was. But from whom? Russian radar, of course, monitored it. Presumably, Russian agents or sympathizers informed the Russians where it came from. They probably were not surprised since they had been observing our overflights for years: those being observed, the Russians, were also observing. The Russians shot down a number of the slow B-47s. I have to presume that they knew they had shot them down. Some of the crews survived and were incarcerated and pieces of the planes would have been retrieved. But we treated those events as among the most closely guarded secrets we had. From whom were we guarding that information? Within the senior ranks of the American government, the very few of us who had a “need to know” were given special clearances, again very highly classified, for what every senior Russian official had known for years.

Then, ultimately, the Russians shot down a U-2. For their own reasons, they decided not to keep the secret any longer. The American public was shocked. It, and it

alone, had been kept in the dark for years. I doubt that many people even today know that the stricken U-2 was one of a long sequence of lost aircraft and crews.

This leads me to the third category of justification for secrecy: to give governments latitude to act as they will.

To put this into perspective, consider our intrusion into Soviet territory. We kept secret our activities from the public, Congress and most of our officials. The Russians, for their own reasons also kept our activities secret from their public and, apparently, from most of their officials. We had a license, in effect, to act as we did. So what is the problem?

Let us consider the problem carefully and over time. We did what we wanted because we could and because the Russians were, for a time, unable to stop us. Few Americans knew enough even to ask questions about the operations. But, as the downing of a number of our aircraft, and ultimately of a U-2, showed, Russians capabilities were improving. They were already flying long-range "Bear" aircraft along the Atlantic coast. I talked to one retired airman who casually commented that he had "visited" New York a dozen times. And I have seen photos of our fighters flying wing on Soviet surveillance aircraft just off shore. At some point, we had to presume, the Russians would be able to do what we were doing. Then, we had to contemplate a reverse of our experience with the B-47, the B-58 and the U-2: what would have been our response to a Soviet aircraft overflying the White Sands Testing Ground or Los Alamos? We had set the rules and embarked upon a game which two could play. The game was surely shooting craps with destiny. Already, in the late 1950s and 1960s, it could have, and on several well documented occasions nearly did, cause a war.

We did not talk about it, it seems to me, primarily because the government did not wish to scare the American public by admitting that it was carrying on actions that could have provoked a war. Probably Khrushchev concealed it because he feared pressure from his "hawks" to strike back. In short, secrecy was used by both the Soviet and American governments to allow them to act in ways that would probably have caused consternation or worse among those upon whom they depended. The leaders knew best and wanted to keep those who might second-guess them in the dark.

The fourth reason I find for secrecy is far less commendable even if, usually, less dangerous than the third: it is the desire of people in government to promote their own interests, to be reelected, to prevent scandal or even to avoid indictment for high crimes and misdemeanors.

As American political leaders have always known and as is guarded against in the system of checks and balances inherent in our political system, officials and the Executive Branch of government as a whole have interests that may be directly opposed to national interest. This is a theme we have always realized and in part explains the party system of our politics where the adversarial juxtaposition makes secrecy difficult; it also was to be promoted by the separation of powers in the three branches of our government

as enshrined in the Constitution. Recognition of this conflict of interest is, as I understand it, what motivated Congress to pass the Freedom of Information Act.

The Freedom of Information Act required the Executive Branch of the U.S. Government to establish special offices and mechanisms to vet and release documents. The intent is that the government must show that release of information will damage the national interest since the assumption is that the public, in a democracy like ours, has a right to know what its representatives are doing in its name.

Much of the material generated by, and kept secret by, the government has little or nothing to do with national security. Much is merely damaging to the reputations of officials or to the political interests and electoral fortunes of an administration. A recent case illustrates this. The administration sought to keep secret the names of individuals, groups and corporations that were receiving billions of dollars of tax payers' money as farm subsidies. Why? A cynic might guess that those thus protected from public scrutiny would be more likely to contribute to political campaigns of those who protected them. That is, obviously, as direct a conflict of interest as though the government refused to reveal the names of corporations that had cooked their books or engaged in other shady practices.

Some issues pertain to doings by officials that were illegal. The Act was recently invoked, as the press reported, to get information on actions alleged to have been carried out by Henry Kissinger and other officials in direct violation of American law. Specifically, the issue was the murder of an American citizen in Chile, a journalist by the name of Charles Harmon. Mr. Harmon's widow, Joyce Harmon, attempted, under the Freedom of Information Act, to obtain information on American involvement in the murder of her husband.

Whether or not Mr. Kissinger was personally involved in the Harmon case is of secondary importance to me here. (I understand, however, although the information has not been confirmed, that Mr. Kissinger settled the case out of court.) What is important to me here is that the ability of private citizens to access records on those who act in their name is a fundamental right of our citizenship. The Act was intended precisely to protect that right and obliged the relevant departments to establish offices and procedures to make sure it was.

Yet the key current and former officials of these offices admit that obtaining documents is virtually impossible. Failure to obtain relevant documents forced Mrs. Harmon to drop her case until a well-organized protest forced President Clinton to intervene. As the responsible official told me, "otherwise it would not have happened." Without such presidential intervention, requests for information often take years or are simply "stone-walled." If the petitioner goes to court, which he has the right to do, he must figure on spending hundreds of thousands of dollars in legal fees. Governments hate to declassify information especially if it might be embarrassing even when secrecy no longer has any reasonable claim to be "in the national interest."

As some of you know, the murder of my brother is a case in point. Although the murder took place 54 years ago, and can hardly any longer, if it ever was, be a threat to the national interest, the American government is still withholding crucial papers and has obliterated many of those it released. Repeated efforts on my part have yielded almost nothing of any substance or value.

This was true under the last Democratic administration. President Clinton did not move at my request or that of a group of America's most distinguished journalists to allow the whole truth on the murder to come out. Will this administration follow the Clinton pattern?

Attorney General John Ashcroft has been quoted (*San Francisco Chronicle*, January 2, 2002) as giving his answer. If the report is true, he is taking an even more restrictive approach than any previous administration. The report indicates that he has decided not to abide by the Freedom of Information Act in its entirety. Writing in a memorandum dated October 12, 2001, he is alleged to have said that the Justice Department will defend any federal official who refuses to act according to the Act.

Interestingly, the Attorney General was not referring to cases that might conceivably affect the national interest but the names of potential donors to his political party. In the same spirit, President Bush on November 1, 2001, issued an executive order sealing all presidential records since 1980.

Such moves are, I believe it is clear, not "conservative" of the American tradition, but radical departures from it. They are certainly also moves against "transparency" in government and business, and so will contribute to the malaise that now appears to be a serious threat to our national health and prosperity.

This trend away from accountability and toward secrecy has another, if so far less clearly defined, result: the current opposition to the creation of an international criminal court.

As I understand it, from press accounts, the principal argument against America joining in the formation of an international criminal court is that American soldiers and intelligence officers could be indicted for actions they carry out. This argument appears to divide into three parts: first, governments opposed to American policy could, presumably, harass American officers acting appropriately in the line of duty and thus hamper or even thwart legitimate actions. Second, since the American government would be reluctant to expose its officers and soldiers to the threat of such legal harassment, it would not undertake actions it should undertake to protect our national interests. And, third, American officials may from time to time do things that actually are a violation of international law; if so, we do not wish to have these publicized or to face the consequences of the action.

I am not sure what brought these issues to the fore, but perhaps they are at least in part related to recent events involving Henry Kissinger. As reported in the press, they

went like this: Since the dictatorship of General Augusto Pinochet was overthrown, the new Chilean government has interested itself in the murder of a number of Chileans and also in the murder of Charles Harmon. The Chilean courts submitted a “letter rogatory” to the American government; they wanted information. This action was echoed by other governments requesting information on the murder of some of their citizens. A French court, among others, served Mr. Kissinger with a request to answer questions on the murder of French citizens. Mr. Kissinger refused to answer and left France in haste. Apparently, he has also become careful in his travel plans not to visit countries where questions might be asked by national courts. Were an international court of justice in existence, he might be, as at least one other government has said, indicted by it. Then he would not be able to skip just a few countries but would be under examination by many through a duly constituted tribunal.

Is this fair or reasonable? Certainly, many Americans are likely to rally behind President Bush to answer that it is not. We do not like foreigners second-guessing us or judging our actions. Most of us would not be so crude as to argue that we are above the law, but, of course, some others will disagree. Many individuals and governments already fear that we are acting, again to use a Washington expression, like loose cannons, just as we choose and without any clearly defined restraints.

Whether or not these arguments are valid or compelling, I leave aside. But I believe we can all agree that we do not feel ourselves bound abroad by the restraints we take for granted at home. As I mentioned in an earlier essay, we could not conceivably bomb Harlem for housing drug dealers or invade “Little Italy” for protecting the Mafia, but we could and did attack Afghanistan for harboring the followers of Osama bin Ladin.

Yet, whatever may have been the distinction between “domestic” and “foreign” in the past has been blurred beyond recognition. Actions the American government takes abroad impact upon all of our domestic lives. They can cut off our access to things we need to maintain our way of life, can so severely damage our economy as to cause depressions and can lead to war. To assert the contrary is to fly in the face of reality. Certainly the Bush administration believes this to be true. It is a cardinal aspect of the “war on terrorism.” We do, however, attempt still to maintain a distinction between domestic and foreign in restraint on government through law.

What is at issue is not the distinction between what we do in the different spheres, but rather the criteria by which we evaluate our action: this is the central issue of our political system: is government accountable or not? Whether the question is posed in domestic affairs or international affairs is, I believe, of secondary concern. If it teaches us anything, history teaches us – and certainly our Founding Fathers articulated their belief clearly enough – that, when a government becomes “imperial” abroad, it soon becomes tyrannical at home. Attempting to live by two standards does not work on the personal level and does not work on the national level.

Only if, I deeply believe, we determine to maintain the kind of a society we have struggled since at least the American Revolution to create and wish to live in, one that is open, free and just, can America hope to maintain itself as a democracy, to maintain the

respect of free men everywhere and move toward a world of reasonable security. Our heritage is precious. Those of us who have lived in other countries realize how rare and how fragile it is. Above all else, we must defend it. But, we cannot defend it if we cannot learn what is happening. The enemy is often secrecy, the attempt to prevent us from being “in the know.” Knowledge is the bedrock on which democracy must stand or it will surely fall.

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