

ESPIONAGE: A STUDY IN INTERNATIONAL PERSPECTIVE

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Espionage is said to be the second oldest profession in the world and since its practice developed there have been times when questions arose upon its legality and extend, although the development of international legal principles regarding peacetime espionage has lagged behind the changes in international intelligence gathering norms and practices which can be said to be the result of the effectiveness of the profession. For example, intelligence activities that take place around the globe are now accepted as a common, even inherent, attribute of the modern state. Moreover, the success that the international peace operations have got and the positive contribution of non-governmental organizations to conflict resolution has often depended upon timely and accurate intelligence. Accordingly, international law might better reflect an updated appraisal of peacetime intelligence activities. In an age where there is an increasing call for public knowledge of the world's diplomatic, military and criminal condition, it is better if the international jurists reconsider the identity and the fate of individuals accused of spying. International law that is regarding the peacetime espionage is virtually unstated and thus it has led to, international law being inappropriate and inadequate reference for either condemnation or justification of actions involving intelligence gathering.

The fact that the intelligence function or espionage is an essential part of any policy or decision making process is unquestionable. Writers who have focused and mastered on international themes have note that for any international organization to maintain its authority in the decisions and policies that it makes, it must have access to good intelligence. Although the intelligence gathering practice of international organizations, at times, generate ethical and practical problems similar to those that are caused by the efforts of nation states. There is this inevitable tendency which is to measure the relative moral value of ends versus means within the context of limited intelligence budgets. Yet law relevant to the negligent loss, betrayal, theft, or collection of information by international and transnational organizations barely exists. Accordingly, jurists are more interested in promoting the legal reach of public international organizations which should establish sound legal and ethical guidance. To this end, the American experience can serve as an example, due to the high level of public scrutiny focused on the American national intelligence regime.

If it is to be seen then in its broadest sense, intelligence is nothing but knowledge. The term cannot be stretched to mean all kind of knowledge, but intelligence is, at least, that knowledge which relates to a decision making process. Supposedly, intelligence differs from mere information because of its value against a specific decisional goal.

No one can better understand this job of intelligence gathering than those who are doing it and thus the intelligence officers describe their effort as a cyclical endeavor consisting of planning, collection, processing and dissemination; the use of the cycle metaphor is to suggest the continuity of the steps and the impact of each step on the others. Any part of the cycle could be called 'espionage' and the intelligence analyst, briefer, or collection planner might each claim membership in the espionage establishment. At present, however, the case is not the same anymore. Espionage, within its more specific and limited meaning, is more of a human information collection. Although the analyst may produce significant intelligence via creative scientific method and it must be understood that analysis is not spying. Similarly, intelligence planners may act as a key motivator of espionage-related activities, determining information priorities, and managing available methods for obtaining the information but they are not considered as spies for so doing. Dissemination of information and media influencing may be so tied to some espionage activities that distinguishing between the two may be dysfunctional or disingenuous. Nevertheless, for most of the part, the dissemination step of the intelligence cycle can also be logically up to a great extent be separated from espionage in its limited sense.

After the understanding of the meaning of the term espionage, it is quite clear that it is not just limited to one single method that is to say that the approach can be in different manner, most of the time espionage is divided into two categories: **covert operations and covert intelligence**.

First category that is **Covert Operations**, covers under it active operations and cyber operations, this consists of that part of espionage which is usually the used the most to define the term itself and which tend to cause influence in political system. It covers under it such acts that are most of the times classified by the government and are usually kept away from the public eye although most of the acts that are performed under the practice of espionage are classified, there do happen to be few which can be noticed by the political analyst. These covert operations further take different forms which can be classified as, coercive covert operations, political operation and propaganda.

The second category of espionage is **Covert Intelligence**, this category of intelligence holds the part of gathering of information and the analysis of that information, the major part is to gather as much information as possible which can further be used as per the need, that can be to plan it's foreign policy, predict or understand the future behavior of its constituents and likewise. The covert intelligence can be then divided into two strands: gathering of information and the analysis of that information. The collection of information that takes place can be carried out in three variants:

Human Intelligence (HUMINT) - Here the active agent collects the information via networks or interactions. To further understand this variant it can be put in this manner that, the information that the agent receives or finds out is mostly through all the networks or connections that the agent as established in the course of the occupation or if passed on by the facility that the agent is a part of. The other way is the interactions that he makes in order to obtain such vital information that are not easy to get or which are not available through networks.

Signals Intelligence (SIGINT) – The information that is gathered here is through electronic surveillance or communication interception. The agent installs certain electronic devices in the area or work place of the person whose information is to be obtained; the installation of such devices is done with utmost care so that they aren't discoverable by the protagonist of the activity. The other way which is helpful in gathering the information is by the interception of the communications of the person on whom the activity is being carried out, here the communication devices of the person are under observation and are intercepted for information.

Photographic or Imagery Intelligence (IMINT) – The information gathered by the agent here is either through satellite reconnaissance or the agent having a informant put to work to gather the imagery as per required. All the above mentioned activities are performed with utmost care and secrecy, just to ensure that the operation doesn't get exposed. The photos or images that are gathered are of much advantage in order to proceed in planning further. The information is considered to be of great interest for the use and helps in analyzing the other party.

When a profession which as always is said to be the second oldest profession in the world is discussed it is an honor to talk about its ancient ties and how far as it come from that time, what legal status did it hold in the ancient period and how did scholars in the ancient past described it. The earliest records of espionage, not just even in the case of Indian history but world history also can be traced back to the Vedas, which are said to be the oldest written scriptures available to human kind. Among which the *Rig Veda* is said to be the most ancient one among them all, which is said to be orally codified some three thousand years ago, while the beginning of the Vedic thought precede that by centuries or even a millennia although there is no reliable estimate to their antiquity that could show light to it.

If a more scholarly reference is to be taken into the consideration then the most reliable and ancient can be the, *Manusmrithi* which is a compilation of legal codes that governed most of the ancient Indian society and the other one is the *Arthashastra*, which is more of a political book, written by the Indian political thinker Kautilya who is also acknowledged as Chanakya, which is referred by the political analyst's around the world even today. Both these books have reference to the activity of espionage of that time, how prevalent were the activity how was it carried out and how it was a integral part of the State security and was not observed as a grey area as it is done in the contemporary era. The security of the State use to be of utmost priority and to maintain that all necessary requirements were met without any compromise, the above mentioned books tell us how the spies use to play an efficient role in maintaining the law as well as looking after the security of the State without being discovered even by the natives of the State. As much as it was a priority to maintain the security of the State at the same time it was

the State's duty as well to protect and look after the safety and security of the individuals that were a part of it and for this also there were many times when the State use to take the help of the spies in order to protect the citizens and keep them safe from any unforeseen attack from a foreign State.

Even the famous Italian diplomat Niccolo Machiavelli wrote about espionage in his book *The Prince*, where he as discussed as in how it is of utmost importance for a ruler to have the total knowledge about the enemy and to do so how he must have people assigned for this task to gather as much information about the enemy state as possible. There is no question in this regard that espionage has been linked with the building of great empires and that it is not just a part but also a necessity in order to have advantage for on self.

There have been major instances where the use of espionage as led to major victories as well as from stopping great casualties to occur. Despite of the legal issue that espionage may face in the modern era there is no denying of the fact that there have been number of such cases where espionage has helped in bringing peace and stability. The nations have used this field of profession time and again in order to make progress and to achieve certain things. Era after era new empires and nations came into being and they have all learned and passed on this profession with modification and excellence. The new age has also received it just like all the previous one, although there is a huge advantage to this in the modern era with the discovery of the technological age, this blend of technology with espionage has given a whole new frame to the profession and it can now be performed in a totally different manner from how it was before, although the technology has made the job a lot easier it has also added cons to the work. Now it's no more just the spies and agent who are gathering information but almost anyone who is having a great command over the use of technology can use it to exploit it in a very negative manner it is no more used for advantage but for petty bargains. This is one major drawback that has come along with the advancement that the new era has seen, although there are certain provisions to monitor such activities and to make sure that they do not occur, the governments try hard to put a complete stop upon this negative use and soon might come a time when there will be a control over this drawback.

From what it seems to be a very great tool in order to maintain supremacy for nay organization it also comes with a few drawbacks although which are negligible but with the advancement of times have become dangerous and threatening, which require major legal attention. Up till now the espionage was proving to be of great importance for nation states but the recent technological development has led to a huge infringement of privacy of the citizens of a state which is a major issue that must be addressed by the international legal jurists and writers.