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Does Covert Action Have a Future?

ALLAN E. GOODMAN

As the intelligence community, Congress, and the presidential candidates debate the lessons of the Iran-Contra affair, a central issue will be the future of covert action as a foreign policy tool. The Executive Order on United States Intelligence Activities issued by President Reagan in December 1981 provides, in section 1.8(e), that one of the main functions of the CIA is to "conduct special activities approved by the President." This mandate—coupled to section 102d(5) of the National Security Act of 1947, which states that the CIA can "perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct"—is the basis on which the US government today conducts covert action. As officially defined in congressional and intelligence community publications, covert action operations include "any clandestine activity designed to influence foreign governments, events, organizations, or persons in support of United States foreign policy. Covert action may include political and economic actions, propaganda, and paramilitary activities," and is "planned and executed . . . so as to conceal the identity of the sponsor or else to permit the sponsor's plausible denial of the operation."¹

Henry Kissinger notes that all American presidents since World War II "have felt the need for covert operations in the gray area between formal diplomacy and military intervention."² That they have done so is hardly surprising, given the challenges that have arisen to US foreign policy and the complicated and increasingly public conditions, domestic and foreign, under which it must be conducted. In a world where the movement of US troops in any sizable number risks superpower confrontation, one

where congressional and fiscal restraints on foreign policy have grown steadily, and one where traditional diplomacy seems cumbersome at best and counterproductive at worst, covert action has seemed a godsend. For here was a foreign policy tool that promised flexibility, secrecy, and dispatch, while minimizing the likelihood that the Soviet Union would respond to its use by escalation. Bolstering these apparent virtues was the argument that in the conduct of foreign policy, presidents should have a variety of tools with which to achieve national security purposes, especially ones which avoided the use of regular military forces or their active intervention in conflicts abroad.

Covert action seemed particularly suited to the immediate post-World War II period. The US public and Congress were in the process of demobilizing millions of soldiers; yet, conditions in many countries were quite unstable. Some countries faced active communist insurgencies requiring, at times, paramilitary intervention. Others—especially in war-torn Europe—faced the threat of subversion by political means. What was needed to counter these threats was a foreign policy tool that allowed for swift, decisive, and tough action at relatively low cost and visibility. Once the principle of using covert action in peacetime was established,³ the US government's capability to employ it grew rapidly, as did the frequency with which it was used as a means of influencing events and situations abroad.

Early in the 1960s the use of covert action declined somewhat because of the failure of the attempt to liberate Cuba. The disaster at the Bay of Pigs led President John F. Kennedy both to replace the Director of Central Intelligence and to have second thoughts about the utility and reliability of covert actions on a large scale, although as the Church and Pike committee investigations revealed in 1974 and 1975, President Kennedy did continue to use covert action assets to destabilize Fidel Castro's regime and to complicate (if not directly threaten) the Cuban leader's personal security. As US involvement in the Vietnam War deepened, however, covert action became an indispensable part of the war effort. This was to be expected, since the United States was at war in Indochina and special operations have always been a part of the way the United States has fought a war.

The mid-to-late 1970s saw a sharp decline in the use of covert action, attributable to such factors as the withdrawal of US forces from Vietnam, revelations that the CIA had undertaken covert operations in

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Latin America with questionable purposes and very poor supervision, and the moral aversion President Carter had for intelligence operations generally. While President Carter did not prohibit covert operations, it was clear by his reactions and those of his advisors to proposed plans that the option was to be used rarely and only in extremis. This inevitably dampened the enthusiasm of the CIA's covert action staff for proposing new operations. But even the Carter Administration found that foreign policy could not be conducted without a covert action capability, especially in view of the seeming inability of diplomacy and economic sanctions to resolve the Iranian hostage crisis.

Ronald Reagan and most of his cabinet, in contrast, have believed that much greater use should be made of the CIA's ability to influence foreign leaders and to promote US interests secretly in conflict situations.⁴ While covert action operations rarely had consumed more than three to five percent of the CIA's budget,⁵ in the 1980s they have been considered by many in the Reagan Administration to be perfectly viable and legitimate foreign policy tools. Their use, according to press reports, has increased fivefold over the last years of the Carter Administration.

Over time, the use of covert action has thus broadened substantially from the very limited applications envisioned by the lawmakers who drafted the National Security Act of 1947. In fact, one of the chief architects of that act now thinks that the use of covert action has led to "an egregious deviation from the original conception of how that act was supposed to function."⁶ Such operations—which one scholar estimates involved some "nine hundred major or sensitive projects, plus several thousand smaller ones," between 1951 and 1975⁷—have included:

- Paramilitary operations to effect the release of hostages, preempt terrorist attacks, support deployed US troops in war operations (especially behind the lines), prepare the battlefield preceding the deployment of such troops, or serve as a low-risk substitute for the deployment of regular US forces in conflict situations abroad.

- Propaganda and disinformation programs aimed at influencing foreign media and public opinion generally.

- Political influence programs involving the secret manipulation of political parties, organizations, and leaders.

- Economic warfare operations involving the secret manipulation of foreign economies, exchange markets, and state-owned and private businesses.

Despite a number of successes in the early period of the Cold War and in Vietnam, the propriety and effectiveness of covert action operations have been questioned for some time. As early as 1961, for example, the President's Board of Consultants on Foreign Intelligence Activities was "unable to conclude that, on balance, all of the covert action programs

undertaken by the CIA up to this time have been worth the risk or the great expenditure of manpower, money, and other resources involved.”⁸ Similar doubts have been expressed by many former Directors of Central Intelligence and other high-level intelligence officers who think that covert action detracts from and weakens the CIA’s ability to collect information and also puts intelligence officers “in the increasingly uncomfortable position of trying to sell [covert operations] to an increasingly skeptical Congress.”⁹ For example, shortly after his resignation as Deputy Director of Central Intelligence in 1982, Admiral Bobby Inman told a *U.S. News and World Report* interviewer that “the potential value of covert action is greatly overemphasized, and problems [with its use] tend to be neglected.” The Iran-Contra affair—which is only the latest example in a pattern of risky, questionable, and sometimes illegal use of covert action by key White House advisors and National Security Council staff officers—has underscored again the need for a thorough review of the usefulness and appropriateness of covert action and of the effectiveness of executive control and congressional oversight of its application.

For nearly a decade, critics of covert action in Congress and academia have repeatedly raised doubts about the adequacy of existing legislation and executive branch regulations for controlling and overseeing covert action and assuring that its use is compatible with democratic values.¹⁰ Several points are at issue:

- *Is covert action compatible with democratic values?* From a moral or ethical viewpoint, the answer to this question is clearly no, unless the country is in a declared war. For those who believe that covert action has a place in Cold War situations, the answer to this question depends on whether the operations that are conducted (e.g. secret political influence, disinformation, black propaganda) are effective. From a review of what has been declassified and leaked, it is increasingly hard to conclude, however, that covert action has been effective, even if it can be considered legitimate.¹¹

- *Does the present authorization and oversight system assure effective executive command and control over and congressional review of covert action?* For more than a decade, the answer to this question also has

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been no. It remains to be seen whether the executive and legislative reforms adopted in the wake of the Iran-Contra affair will prove more effective than those adopted as a result of earlier scandals.

- *Where does the line between congressional oversight of covert operations and the president's absolute constitutional right to conduct the nation's foreign policy lie?* This is an especially important issue to address in deciding whether the desire of Congress for timely, if not prior, notification of most covert operations is unconstitutional (as has been alleged, for example, by former CIA general counsel, Judge Stanley Sporkin, in testimony on 24 June 1987 during the Iran-Contra hearings) or whether it is an extension of the intent of the War Powers Act, which was partly designed to prevent the secret and unauthorized conduct of paramilitary operations by the executive. My own view is that the congressional oversight of any of the actions of the executive branch is fully constitutional and that the requirement for notice within 48 hours (as called for in legislation recently passed by the Senate) or even prior notice of covert actions (as called for by legislation under consideration by the House) is consistent with such oversight responsibilities. Of course, it will in some instances make a president think twice before undertaking especially risky or controversial operations, but this is neither undesirable nor an absolute restraint on his or her ability to conduct foreign policy.

- *Does the US government still need a covert foreign policy tool, and if so, how should it relate to and be consistent with declared US policy?* In part, the answers to these questions depend on the confidence policymakers have in the traditional ways of influencing foreign governments and leaders and the overt institutions (e.g. the State and Defense Departments, the foreign aid program, and the National Endowment for Democracy) for implementing policy. Such confidence has been declining rapidly enough to warrant the next president's retention of some covert action capability. But the new president will probably (and correctly) be reluctant to authorize covert operations that violate international treaties which the United States has signed (e.g. the OAS and UN charters) or are contrary to declared US policy. Thus, covert action will probably never again be considered as a routine foreign policy tool.

- *Is it wise to require direct presidential involvement in the authorization process for conducting covert operations?* The current process requires a specific presidential "finding" that makes it impossible for the head of state to claim no knowledge of or involvement in intelligence operations that usually involve deep—and from a foreign perspective, often illegal—intervention in the internal affairs of other countries. Mandating this degree of involvement in covert activities for a head of state is virtually unprecedented, and it withholds from the president of the United States the option of plausibly denying a blown or otherwise embarrassing covert action—an option that is available to every one of his or her counterparts in

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Western democracies. Consequently, the idea of relieving the president from personal responsibility for approving each covert action should be explored, provided a way can be found within the executive branch to assure effective command, control, and evaluation of covert operations and full accountability to Congress by the agency that conducts them.

• *Which organizations in the intelligence community should have authority to conduct covert actions?* The presidential executive order currently governing US intelligence activities, as well as the congressional legislation pending as a result of the Iran-Contra affair, provide that unless the president determines otherwise only the CIA is authorized to conduct “special activities.” As noted above, however, a number of CIA professionals have become increasingly skeptical about the value of covert action and many would like to end the agency’s involvement in it. A stand-alone covert action agency—something the late DCI William Casey apparently favored—is also unlikely to be created. So, if the president wants to retain the capability to conduct special operations, and if the CIA should be relieved of primary responsibility, then the Department of Defense should be the government agency where responsibility for secret paramilitary operations—which I think may be the only form of covert action future presidents will consider using—should be lodged.¹²

Partly because such issues are so fundamental and partly because we are on the verge of a new administration, I expect little will happen in the immediate future to resolve them. And recent congressional efforts to change the way covert action is authorized are strongly opposed by the Reagan Administration.

Yet it is almost certain that while future presidents may retain a covert action option for conducting foreign policy, they are likely to regard it as an exceptional act and sharply limit its use. Such an attitude is probably more appropriate to the conditions, both domestic and foreign, under which the United States will conduct its foreign relations for the foreseeable future. To some, moreover, the decline of covert action and the development of practicable alternatives to its use are long overdue. In writing this

article, I encountered the following observation, which struck me as particularly apt:

It is not possible for a free and open society to organize successfully a spectacular conspiracy. The United States, like every other government, must employ secret agents. But the United States cannot successfully conduct large secret conspiracies. It is impossible for everybody concerned, beginning with the President himself, to be sufficiently ruthless and unscrupulous. The American conscience is a reality. It will make hesitant and ineffectual, even if it does not prevent, an un-American policy. It follows that in the great struggle with communism, we must find our strength by developing and applying our own principles, not in abandoning them.

These conclusions were reached in 1961 by Walter Lippmann after the debacle at the Bay of Pigs. They are no less relevant today as the Congress and the public debate the lessons of the Iran-Contra affair and how the relationship between intelligence and the American foreign policy system should be repaired.

NOTES

1. US Senate, *Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities*, 94th Cong., 2d Sess. (26 April 1976), p. 620.

2. Henry A. Kissinger, *White House Years* (Boston: Little, Brown, 1979), pp. 658-59.

3. When the use of covert action was first considered in 1947, the CIA's own legal counsel concluded that the agency did not have the legal authority required to conduct covert action. But in the judgment of the DCI, Admiral Roscoe Hillenkoetter, and President Harry Truman the United States needed the capability to conduct secret propaganda, and they found a way to assign such operations to the CIA. Reported in John Prados, *Presidents' Secret Wars* (New York: William Morrow, 1986), pp. 27-28.

4. For a detailed portrait of the philosophies of the key proponents of covert action in the Reagan Administration and an important account of the covert operations they authorized, see Bob Woodward, *Veil: The Secret Wars of the CIA, 1981-1987* (New York: Simon and Schuster, 1986).

5. William Webster, DCI, quoted in an interview in *Newsweek*, 12 October 1987, p. 30.

6. Statement of the Honorable Clark M. Clifford to the Select Committee on Intelligence, US Senate, 16 December 1987, p. 3.

7. Gregory F. Treverton, *Covert Action: The Limits of Intervention in the Postwar World* (New York: Basic Books, 1987), p. 12.

8. Quoted in Arthur M. Schlesinger, Jr., "The Intelligence Mystique," *The Wall Street Journal*, 31 March 1987, p. 30.

9. Report of the House Permanent Select Committee on Intelligence on the Intelligence Authorization Act for Fiscal Year 1983, reprinted in *Congressional Record*, 15 June 1987, p. H4609. See also the views presented in former DCI Stansfield Turner's book, *Secrecy and Democracy* (Boston: Houghton Mifflin, 1985), pp. 75-89 and 166-182.

10. See the arguments summarized in Loch K. Johnson, "Controlling the Quiet Option," *Foreign Policy*, No. 39 (Summer 1980), 143-53.

11. See especially the conclusions reached in Treverton, *Covert Action*.

12. While I recognize that the services are themselves skeptical of the value of special operations and have traditionally found it difficult to exercise effective command and control over special units, I think only they have the expertise needed to conduct them today. For a penetrating look at recent US Army problems with covert units, see Seymour M. Hersh, "Who's In Charge Here?" *The New York Times Magazine*, 22 November 1987, pp. 35ff.