

Espionage

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Recommended Citation

Nicholas, Mike () "Espionage," *The Histories*: Vol. 5 : Iss. 2 , Article 6.
Available at: https://digitalcommons.lasalle.edu/the_histories/vol5/iss2/6

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Espionage

By Mike Nicholas '07



From the fictional fascination with James Bond to the very real betrayals of Alger Hiss and the Rosenbergs, the crime of espionage has long held a certain fascination with the general public. While nations have always engaged in clandestine operations for purposes of advancing a foreign agenda or promoting a state interest, they have also held the crime of espionage and those responsible in the most serious regard, and often with the maximum penalty. Espionage is itself a double-edged sword, a duopoly of competing definitions: a patriotic duty and a crime considered “worse than murder.”¹ Yet while most people consider and accept the fact that espionage occurs on an abstract and theoretical level, often very little thought is given to the individuals who commit the various physical acts or to the complexity of the acts themselves. The stereotypical conception of espionage as a crime committed by a single individual for nothing more than love of country is dangerously simplistic. In reality, the crime of espionage is a legally distinct, professionally unique, and highly complex crime.

A general understanding of espionage can be taken in four distinct parts: first, an understanding of the definition of espionage and its place in various legal spheres, second an understanding of the uniqueness of the crime of espionage, third, an understanding of what motivates individuals to commit espionage, and finally an understanding of the relationship between the individuals who commit espionage and the nations who commission their actions. Espionage is, at its most basic level, the effort to discover the guarded secrets of another entity using concealed and clandestine methods. It is an integral but uniquely separate division of any formal national intelligence structure among nation-states, and it has existed since the formation of the modern concept of nation-states.²

The use of spies in espionage operations has been employed by nations in both times of war and peace for the purpose of gaining a strategic, technological, or other tangible advantage over another nation or organization. To that end, espionage has been

¹ Ladislav Farago, *War of Wits* (Westport: Greenwood Press. 1954), 152.

² *Ibid.*, 154.

widely considered to be a legitimate and essential function of every government for purposes of pursuing various national interests necessitated by the need to know hidden information which may or may not threaten peace or general social order.³

In terms of the legality of such actions, lengthy regulations often exist for the treatment of spies captured in wartime, yet international law is nearly non-existent on the issue of espionage during peacetime.⁴ This highlights the complex nature of the act of espionage itself, and any examination thereof must highlight two critical points. First, the use of espionage in both peace and war is a constant fixture within the international intelligence community. There has yet to be a war without the use of spies and there has yet to be a time of peace when spies have not been engaged in preparations for the next war or conflict.⁵

Understanding the first point is critical to comprehending the fact that espionage occurs with frequent regularity. It is not a crime of passion, spontaneity or irrational action, but rather the manifestation of a calculated effort to achieve a particular goal or to become aware of a particular piece of information. Furthermore, espionage is not an end unto itself. An individual does not commit espionage or engage in activity as a spy simply for his or her own benefit, but rather for the ultimate end of benefiting one entity (for purposes of this examination, a nation-state) at the expense of another. The frequency of espionage underscores the ever present need to maintain up-to-date intelligence on the inter-workings of competing nations.

The second point is that the legal relationship between a spy, his or her home nation and the targeted nation is a complicated one. Despite the frequency of use, espionage normally does *not* imply an explicit contract between commissioning nation and acting agent. That is to say that a captured spy cannot relieve himself of responsibility for an act of espionage by claiming that he was acting as an agent of a foreign state, and similarly the commissioning state will rarely if ever interfere with the legal proceedings of a foreign nation lest it openly admits to the commissioning of a spy. The result has been that a state is free to employ spies for purposes of engaging in espionage and to prosecute those which it captures within its own borders. Thus there is no international law of espionage *per se*; laws against espionage have never risen to the state-to-state level of traditional international law. They have instead been left to the individual criminal codes of different countries.⁶

From these first two points it can be reasoned that an "act" of espionage and the "crime" of espionage are synonymous. Because espionage consists of the "penetration of territory of a state by agents of another in violation of the local law," to commit an act of espionage is to commit a crime against a local government.⁷ The distinguishing factor between espionage and other crimes is the fact that the commissioning nation does not consider the "act" of espionage to be a "crime" when it is performed in the service of one's own nation. Thus if in a hypothetical scenario the United States sent a spy to Russia, the individual would be committing an act of espionage *for* the United States, and

³ Ibid., 152.

⁴ Roland J. Stranger, ed., *Essays on Espionage and International Law*. (Ohio: Ohio State University Press, 1962), 34.

⁵ Ibid., v.

⁶ Ibid., vi.

⁷ Ibid., 34.

would concurrently be committing the crime of espionage *against* Russia. The United States would not punish (and in fact would often reward) the action, while Russia would prosecute the individual for committing a criminal act. In both cases, neither Russia nor the United States would receive any punishment on a state-to-state level. Ergo espionage is simultaneously considered both a function of a nation's foreign intelligence service and a crime.

A classic example of this duopoly exists in the case of Soviet agent Colonel Rudolph Abel, who operated under deep cover within the United States during the Cold War. During this time he communicated various pieces of information and state secrets back to the Soviet Union while disguised as a photographer and artist. Eventually, U.S. counterintelligence agents were able to capture Abel on the advice of a Soviet defector. Presented with the option of a reduced sentence in exchange for information regarding his espionage activities or a stiff thirty-year sentence, Abel chose the lengthy jail term, and as a result was regarded as a hero within the USSR but as a criminal within the United States.⁸

From the understanding of the nature of espionage and the legal status of those committing the various acts thereof, an examination of the crime itself necessarily begins with its uniqueness in the pantheon of criminal activity. The act of espionage is unlike any other criminal enterprise in that (ideally) it leaves no traces or proof of its occurrence. If the spy has performed his task ably, the targeted department or agency should never know its security has been breached or that its information has been compromised.⁹ Thus the actual cases of espionage that are known to the public are the ones where the agent of espionage (the spy) has been caught, either through poor work or the simply more exceptional efforts of a counterintelligence expert of the targeted nation. Espionage is therefore one of the most dangerous of crimes when it is undetected, since the victim has no knowledge that a crime has even occurred.

As a result, the best criminals who specialize in espionage (who are never caught) lead distinctly uneventful lives away from prominence or notoriety and often retire comfortably with earnings secured as compensation for their respective services.¹⁰ Unlike the outlaws of fame, whose dastardly deeds are brought to national and international prominence and whose names are known by the general public, the spy is one whose actions are intended to be secret, whose name ought never be revealed, and who should never be known as a criminal if all goes as planned. Spies such as Colonel Abel are the result of an espionage action exposed and the agent being compromised. While Abel was both reviled and exulted at the same time, his criminality would have never existed had he returned to the Soviet Union without incident, for the crime was only revealed upon the betrayal of a defector. Espionage is in and of itself a unique criminal act in that it is only considered a criminal act if the spy is caught, and then only by the nation who ensnared the criminal.

While the legal nature of espionage is complex, the motivating factors of those committing the crimes are far simpler when taken individually. However, because there is such a wide range of potential motivating circumstances, the plethora of motives only adds to both the uniqueness and the complexity of the crime. In fact, to simply reduce

⁸ Chapman Pincher, *Traitors, The Anatomy of Treason* (New York: St. Martin's Press, 1987), 26.

⁹ Miles Copeland, *Without Cloak or Dagger* (New York: Simon and Schuster, 1974), 160.

¹⁰ *Ibid.*, 23.

every spy's reasoning for engaging in covert action to one reason or motivation alone is to oversimplify what is usually a combination of many different motivators. From blackmail to bribery to ideology and a lust for power, each individual brings with himself a different motivation for committing this particular crime. To further that end, various countries' intelligence gathering apparatuses would often use combinations of these motives to convince individuals to conduct espionage on their behalf, and would thus recruit agents in the field as their intelligence needs evolved.

One such motivation for committing espionage is not itself a motive as much as it is a device of coercion: blackmail. This method was used in particular during the Cold War by both the U.S. and the Soviet Union to persuade low level government agents to perform various espionage activities on their behalf or be exposed for something damning in their recent past. One such example was that of Franz Arthur Roski, who was sentenced to five and a half year's imprisonment for espionage in 1985. Roski had been an official within the West German Interior Ministry and had been coerced into spying by East German agents who threatened to expose him for violating various currency regulations in the early 1970s. Rather than face certain prosecution, Roski began transmitting sensitive information to East Germany in order to keep his past from being known.¹¹

Roski's case is not unique. After spying for the Soviets for six years in Cypress, Royal Air Force (Britain) radio technician Douglas Britten ceased all of his activities with the intention of giving up his espionage career. This was until Soviet agents threatened to send a photograph of Britten receiving money from a known KGB agent to British authorities in the U.K. Britten chose to resume rather than be revealed. Britten's case as well as Roski's illustrates one of the easiest and most widely used inducements to convince lower level officials to engage in espionage. No evidence exists in either case to assume that either Britten or Roski would have engaged in spy activity independent of coercion by Soviet officials. While both were discovered (and subsequently punished), their motivation (like that of many others) to commit the crime of espionage was compounded by previous illicit acts which were unknown until their discovery as spies.¹²

While blackmail serves as an effective motive for committing espionage, it is by no means the only one available. Financial incentive has been and continues to be a major coercion to commit espionage. Larry Wu-tai Chin, a C.I.A. translator, was convicted in 1986 for transmitting classified information to China for sums of up to \$150,000 per transaction. Similar in motive but more massive in scope is the case of John Walker, a naval chief warrant officer who, along with his son, conspired to provide secret submarine technology to the Russians beginning in 1968 and earning, by the discovery of the operation in 1983, upwards of \$332,000 (all tax free).¹³

The key to providing financial incentive lies in allowing the spy to go about his or her daily business without deviating from their normal routine, except to quietly collect classified information and deposit or transmit it at specified times and locations. In Chin's case, the secrets passed on were the product of his direct work as a translator and the sensitive information he came across were ancillary to his official function. He was therefore only required to share what he already knew to receive payment. In Walker's

¹¹ Pincher, 116.

¹² *Ibid.*, 117.

¹³ *Ibid.*, 77.

case, having a background as a chief warrant officer and having previously served on submarines, collecting naval intelligence information was not a far stretch from his actual employment, and it therefore was relatively easy to conduct a large espionage operation.

Where these particular criminals (those who perform espionage for financial gain) often run into trouble and subsequent capture is when they push the envelope by collecting too much sensitive information over too short a period of time, or when they collect too large sums of money and so attract the attention of watching counterintelligence agents. It is estimated that several hundred (the exact number has never been published) individuals have been commissioned as spies or espionage agents in the post World War II era alone through stimuli of blackmail and bribery, showing in part the extent to which people are willing to engage in this particular criminal activity (espionage) for financial gain or to maintain the secrecy of their past.¹⁴

While blackmail and financial incentive are ample tools for use by spy recruiters, some individuals have within themselves the motivation for committing espionage and need only encouragement. The pull of ideology is a strong motivating factor behind many who commit the crime, and the nation responsible for the greatest exploitation of ideological sympathy was the Soviet Union with the use of Communist ideal as a means of persuading individuals to perform acts of espionage. In order to attract potential agents, Soviet agents would form Communist "study groups," ostensibly to provide a free academic outlet for those who believed in Communism, but whose ultimate purpose was to slowly indoctrinate the subject into believing that espionage action against a Western nation was in the service of Communism and further was their sacred duty.¹⁵

Once the subject was successfully indoctrinated, the agent could begin asking for information without telling the subject the true nature of their mission. The result was that a person would commit an act of espionage on behalf of the Soviet Union, yet fully believe that they were doing it not for the USSR, but for the Communist Party. One such case is that of Kathleen Willsher, a British woman working in Canada for the High Commission of Ottawa, who was recruited in such a manner and then ordered to provide state secrets to the Communist Party of Canada. In reality, they went straight to Moscow, albeit without Willsher's knowledge. Finally captured after seven years of espionage, the extent of Willsher's indoctrination was discovered when she confessed that despite her misgivings about such acts, she "had to comply because it was her duty to the party which overrode other duties."¹⁶ The use of ideology has been used to coerce many other actions beyond espionage, including terrorism, but its use by the Soviet Union on Communist sympathizers remains one of the highly effective methods used throughout the 20th century.

Finally, many individuals have engaged in espionage being motivated out of little more than the lust for power and personal gain and the thrill of engaging in dangerous work. This was especially true in the 1930s, an era in which many young individuals felt a sense of impotence in their society. The desire to be at the forefront of an ever changing political landscape and to play a part in the struggle of nations to gain international dominance attracted many young men and women into espionage. Among them was a U.S. KGB courier named Harry Gold, who confessed that he had felt a sense

¹⁴ Ibid., 72.

¹⁵ Ibid., 63.

¹⁶ Ibid., 64.

of thrill and excitement at being active in “a power struggle aimed at changing society.”¹⁷ Gold’s reference to a power struggle is in the context of World War II and the post-war era, where the United States and the Soviet Union were engaged in a struggle for singular dominance on the international stage.

It is this lust for power and influence that is most often romanticized in film and literary works. While cases certainly exist of power-hungry thrill seekers committing espionage for the greater good of their respective countries, they are the exception. Espionage is work that is best done unseen and unheard. The best espionage operations, according to a British Intelligence manual, are not those of flamboyance but are rather “like a good marriage. Nothing out of the ordinary ever happens in it. It is uneventful. It does not make a good story.”¹⁸ Therein lies the underpinning of every motivator to committing espionage: the need for secrecy. Whether due to blackmail, bribery, ideology or a lust for power, the most successful acts of espionage are the ones that go unnoticed, and so the motives of the perpetrators remain unknown.

The final piece of understanding required for a working knowledge of espionage as a crime is the relationship between the individual criminal act and the states that perpetuate it. While there are many motivators that compel individuals to commit acts of espionage, they are all commissioned by a sovereign state. The legal relationship between commissioner and actor has been discussed, but the practical relationship between the state and the act bears relevance to the recurring and perpetual commission of espionage.

All of the specific individuals discussed performed their actions on behalf of a nation, and most of the acts are commissioned today by the United States, Russia, or Great Britain. This comes as a result of the massive espionage establishments created in the beginning part of the 20th century, which expanded through both World Wars and peaked during the Cold War, and has continued since. This bears on two distinct and important features. First, espionage will continue to be a crime committed by individuals at the behest of nations. In 1967 alone, Russia spent \$2 billion U.S. dollars on espionage apparatuses, including field operations.¹⁹ The U.S. and Great Britain spent nearly equivalent amounts during the same time period. While recent budget figures today remain classified (and are rarely broken down for purposes of espionage expenditure), the principle lies not in the dollar amount, but in the fact that all three nations continue to finance huge clandestine espionage operations. The network becomes even larger when you include other nations who spend money on such activities, including China and other European powers.

The result is that espionage will be a crime that is not only continuously committed, but one that is state sanctioned. Tangentially, due to the legal nature of espionage, acts of espionage will continue to only be regarded as a crime by the targeted nation, and will either be denied completely or be quietly sanctioned by the commissioning nation. Thus actual punishments for committing espionage range from a term of years to life imprisonment to death, depending on the particular nation and the nature of the act committed. Despite the fact that the source of the crime is a nation state, the punishment for the crime will continue to be inflicted on the individual perpetrator.

¹⁷ Ibid., 57.

¹⁸ Copeland, 23.

¹⁹ David Wise, *The Espionage Establishment* (New York: Random House, 1967), 17.

The second feature of the espionage establishments is the continuous shift of the type of individual recruited for espionage work. As a general rule, espionage establishments attract elite, privileged and better-educated members of their respective societies, bearing a certain *noblesse oblige*.²⁰ This is a noticeable shift from the young disillusioned plebian often attracted in the 1930s and throughout most of the Cold War (often persuaded through ideological arguments) to perform espionage services. Still, there is no “ideal spy,” making it very difficult to create a model for capturing a perpetrator of espionage. Scientific evidence has shown that the stereotypical psychopaths and freaks do not in fact make good spies. Instead, an effective espionage agent is a rational and patriotic citizen (or one who can be strongly coerced) who bears loyalty to country and cause.²¹

A rational patriotic citizen can be drawn from the dredges of society to its highest echelon. A person can be motivated to perform espionage due to blackmail or simply for the thrill and the excitement and adventure, or any other plethora of motives. That has been and remains the challenge to effectively identifying and capturing perpetrators of espionage. Because the crime itself is so diverse and lends itself to so many different situations, the type of criminal too is diverse and can be drawn from a multitude of individuals for any number of reasons.

Espionage is therefore anything but a simple crime. It is one that has a unique dual legal relationship. In one sense it is not a crime at all but a sanctioned, legal duty. In another it is a serious crime against the state. Unlike other crimes, espionage is considered criminal depending on what country’s laws to which one is being subjected (the commissioning nation’s or the targeted nation’s). Espionage is unique because those who commit espionage do so out of a wide range of motivations, from loyalty to coercion to financial gain and many more. Finally, the relationship between espionage as a crime and espionage as a national establishment ensure that not only is this crime sanctioned, it is encouraged and funded by the very nations that prosecute and punish the perpetrators of other nations. For these reasons, the crime of espionage is a distinct, unique, and highly complex crime that has and will continue to evolve.

²⁰ *Ibid.*, 4.

²¹ Farago, 186.

Bibliography

- Copeland, Miles. *Without Cloak or Dagger*. New York: Simon and Schuster. 1974.
- Farago, Ladislav. *War of Wits*. Westport: Greenwood Press. 1954.
- Pincher, Chapman. *Traitors, The Anatomy of Treason*. New York: St. Martin's Press. 1987.
- Stanger, Roland J., ed. *Essays on Espionage and International Law*. Ohio: Ohio State University Press. 1962.*
- Wise, David. *The Espionage Establishment*. New York: Random House. 1967.