10 Ethics and covert action

The “Third Option” in American foreign policy

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Covert action as an instrument of American foreign policy

Covert action (CA) has been defined by a former high-level practitioner as “influencing people, organizations, and events in other countries secretly, using a variety of inducements and pressures while attempting to conceal sponsorship” (Bissell, Pudlo, and Lewis 1996, 207). Put simply, this hidden approach to foreign policy consists of government attempts to shape events and conditions overseas through the use of propaganda, political and economic programmes, as well as paramilitary operations (PM “ops” or warlike activities).

The aspiration is to channel the currents of history in a direction favourable to the United States. Former Secretary of State Henry Kissinger stated the case for the Third Option: “We need an intelligence community that, in certain complicated situations, can defend the American national interest in the gray areas where military operations are not suitable and diplomacy cannot operate”.¹ Thus, the purpose of covert action is to give the world a secret nudge – or even a shove – in a pro-American direction. This chapter examines the range of covert actions adopted by the United States, and explores their pros -and cons.²

Covert action as a government process

With sensitivity to ethical implications, this section addresses the legal foundations of covert action in the United States, along with its decision-making procedures and degree of accountability.

The legal foundations

The United States has resorted to covert actions since the nation’s earliest days. President Thomas Jefferson, for example, ordered paramilitary operations (PM ops) against the Barbary Pirates (Wallace 1975). Not until enactment of the National Security Act of 1947, though, which created the modern American intelligence establishment, did covert action have a formal, legal underpinning. That landmark law provided boilerplate language for the newly minted Central Intelligence Agency (CIA, known by insiders as “the Agency”) that allowed it to engage

not only in intelligence collection and analysis, its main charge, but to pursue as well “such other functions and duties related to intelligence affecting the national security as the President or National Security Council may direct”.

The Truman Administration turned to this spongy wording (supplemented by executive orders) for authority to launch a series of covert actions around the world, crafted mainly to shore up Western defences against a perceived rising Soviet threat. Since the CIA enjoyed access to unvouchered funds as a result of its sensitive activities, the agency became all the more attractive as an organization to carry out clandestine operations beyond the prying eyes of Washington’s media corps and inquisitive lawmakers (US Department of State 2019, 35).

In 1974, as the CIA was in the throes of controversy over domestic spying and the agency’s secret manipulation of elections in Chile (as directed by the Nixon White House), the government finally addressed the subject of covert action specifically in a statute. The Hughes-Ryan Act, passed in the waning days of that year, still lacked a robust definition of covert action; nevertheless, the new law was revolutionary in its reach. Henceforth, the CIA (or any other organization assigned a CA task) had to seek formal White House authority, with the president required to “find” that a proposed covert action was important to the nation and should proceed – a so-called findings process. Gone were the days of “plausible deniability” when the nation’s chief executive could claim ignorance about a CA endeavour that became public and proved embarrassing. More sweeping still, the president was required to report all CA approvals to the appropriate oversight committees in Congress. Suddenly, dramatically, lawmakers were now in the loop for the Third Option. The Senate Select Committee on Intelligence (SSCI) and the House Permanent Select Committee on Intelligence (HPSCI) would now receive regular briefings on presidential findings within two days of their approval by the president.

Lawmakers further tightened the legal screws on covert action six years later with passage of the Intelligence Oversight Act of 1980. In another revolutionary move, this law mandated *prior notice* to SSCI and HPSCI on all covert actions approved by the president. No more two-day delays were allowed, as had been the case under Hughes-Ryan and which often made it too late for lawmakers to object. From now on, members of Congress had an opportunity to offer their critiques *before* operations were launched – perhaps managing to close the barnyard door (if necessary) before the CA horse had bolted out.

By virtue of this chance for genuine debate within the secure confines SSCI and HPSCI, lawmakers could skewer (if necessary) untoward proposals – even threaten budgetary retaliation should the executive branch ignore suggested modifications offered by the congressional Intelligence Committees. The 1980 statute did not expressly require legislative approval of covert actions; however, it did establish a setting that permitted lawmakers to weigh in. Congress holds the power of the purse; as a result, the opposition of SSCI and HPSCI members could not be taken lightly by the White House, whether the criticism was just verbal or followed by a formal (if technically non-binding) vote against a specific covert action.

Subsequently, in the aftermath of the Iran-*contra* scandal involving covert actions during the Reagan Administration (the 1980s), Congress at last placed into law a formal definition of the Third Option, by way of the Intelligence Oversight Act of 1991. This statute continues to stand as the current legal foundation for America's secret interventions abroad. The definition states that covert action is "an activity or activities of the United States Government to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly". The name of the CA game was, in a word, *influence*. The law also emphasized that, in times of emergency, the president had to provide advanced reporting just to eight leading members of Congress, four in each party (the "Gang of Eight"). Within two days of a presidential finding, however, the full memberships of SSCI and HPSCI were supposed to be briefed – a rule not always honoured by the executive branch in recent years.

What ethical ramifications emerge from this set of intelligence laws³? An important aspect of such considerations in a democracy is the extent to which government officials and agencies act in a manner faithful to a nation's constitutional framework. From this point of view, an ethical evaluation of covert action carried out by the United States rests on one's interpretation of the Constitution. Almost all of America's leading legal authorities, along with most of its political scientists, understand this document to have established co-equal executive and legislative branches of government. "Ambition would be made to counter ambition" was the prescription advocated by James Madison, the leading drafter of the Constitution in 1787 (*Federalist Papers*, No. 51). The nation's founders gave to Congress, whose duties are outlined in Article I of the Constitution, strong authority to curb executive power, extending from a tight grip by lawmakers on spending authority to their right to authorize war – and even impeach and remove a sitting president from office.

From this vantage point, the intelligence laws in the modern era as they relate to covert action display a moral goodness; they establish, for the first time in world history, a muscular legislative branch able to monitor the nation's proposed secret interventions around the globe. However belatedly, the bedrock principles of representative democracy as expressed in the Constitution had been brought into the invisible side of America's government.

If, however, one believes that Article II of the Constitution, which addresses presidential authority, has a superior status over Article I, and that it grants unfettered authority to the White House when it comes to national security affairs, then the CA statutes enacted from 1974 to 1991 are morally bankrupt, because they hobble (so critics allege) the ability of a president to protect the United States from foreign threats and internal subversion. The congressional checks and balances in the sensitive domain of intelligence place (according to this pro-Article II perspective) an undue burden on the executive branch in its struggle against global terrorism and other dangers. The survival of democracy – the ultimate moral good – is held hostage to a perverted doctrine of "the separation of powers" in the federal government; giving Congress a role in domestic affairs, say,

agriculture or health care, is sensible, but certainly not when the very survival of the nation is at stake in a hostile and uncertain world. So goes the argument of Article II devotees.

This unrestrained pro-presidency point of view had been roundly rejected by drafters at the Constitutional Convention in 1787; and, in the modern era, it was crushed again by America's painful experiences from the mid-1960s to the mid-1970s with presidential excesses during the Vietnam War, the Watergate scandal and revelations of the CIA spying at home. James Madison, George Washington, Lord Acton, Justice Brandeis, J William Fulbright – the list goes on of those wise counsels over the years who understood the risks of power concentrated in the hands of the president.

In contrast, Richard Nixon, Henry Kissinger, Dick Cheney and legal scholar John Yoo, as well as Donald J Trump and his Attorney General William "Bill" Barr (to mention a few), rejected the notion that Madison's anti-power moral imperative lies at the heart of the American Republic.⁴ As a result, they contributed to the subversion of the most basic ethical principle that undergirds democracy: freedom from autocracy. They routinely stiff-armed a role for Congress in international affairs, as though the value of executive branch efficiency surpassed the need for congressional restraints on the possible abuse of power. They turned their backs on the central motivating goal of the constitutional founders: no more King George III's ruling over America – or any future tyrants.

The history of intelligence law and covert action is, from the perspective offered in this chapter, an impressive unfolding of measures designed to improve the chances that the United States will test and temper executive branch initiatives with at least some degree of debate within SSCI and HPSCI over proposed "special activities". The disquieting alternative is to rely solely on only two elected officials, the president and vice president, along with CIA bureaucrats, to make these important judgements on behalf of the American people. That approach produced, among other examples, the Bay of Pigs fiasco in 1961; the dubious CIA assassination plots against foreign leaders in the 1960s; the domestic spy scandals revealed in the mid-1970s and the *Iran-contra* affair in the mid-1980s.

Decision-making for covert action

Statutes related to intelligence have attempted to "democratize" CA procedures in recent years, bringing lawmakers into the picture just as the founders broadly advocated at the Constitutional Convention. These efforts also display a moral goodness that allows basic democratic values to enter into the practice of choosing what covert actions, if any, the United States should pursue – primarily, a meaningful role for representatives of the people in Congress.

In the years leading up to the Hughes-Ryan Act in 1974, the democratic principles of representative government – the heart of moral goodness in an open society – had been largely abandoned when it came to intelligence matters. The spy power would be an exception to the normal, constitutional interactions between Congress and the executive in other policy domains. For example, the

Church Committee, which in 1975 investigated intelligence practices in America, reported that only 14% of covert actions carried out by the United States from 1961 to 1975 had been approved by the National Security Council (NSC) (Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities 1976, 56–7).

On those occasions when the president and vice president were in the “witting circle”, rarely were members of Congress informed – including those who served on the small subcommittees in both chambers that dealt with CIA budgets. In post-Hughes-Ryan days, however, the moral foundations of CA decision-making have been more in harmony with the intent of the Constitution. A handful of senators and representatives, supported by expert aides, now review key intelligence initiatives. As the law has evolved since 1974 to strengthen democratic procedures – within the necessary limits of protecting legitimate national security secrets, which obviously prohibit debate in the full legislative chambers on delicate CIA activities – so have covert-action decisions become more open to legislative review (chiefly via SSCI and HPSCI) and, therefore, more ethically defensible in an open society.

Covert action and accountability

As with covert action innovations in US law and decision-making procedures, so, too, has intelligence accountability moved in a direction of a higher ethical standing, at least as that concept is defined in a democracy as supporting significant checks on unbridled executive power – in this case, secret power. With regard to CAs, their shaping and review have gone from the sole domain of bureaucratic specialists and their managers in the executive branch, with occasional course corrections from the White House, to serious question-and-answer sessions within the inner sanctums of SSCI and HPSCI on the merits of specific covert action findings authorized by the president.

As for the canard that CA as a policy option has been ruined by the new laws and procedures since Hughes-Ryan and the Church Committee, because lawmakers are unable to keep a secret and leak information about findings to the media, the evidence since the creation of SSCI and HPSCI simply does not support that claim – which is expressed mainly by those who long for a return to the “good old days” of Article II supremacy, when the CIA operated with minimal supervision even from the White House, let alone the Congress. Since the mid-1970s, almost all of the top intelligence leaders (DCIs, and after that office was abolished in 2004, Directors of the CIA or D/CIAs) have endorsed the new and more rigorous forms of intelligence accountability, with William J. Casey, architect of the Iran-*contra* affair, the exception.

The covert action process and democratic principles

Process, that is, the procedures established by the Constitution and law for decision-making and accountability, is the essence of democracy, because it determines

whether or not elected officials beyond the White House and the executive branch agencies are included in the determination of covert action policies. As Treverton has observed with respect to the Iran-*contra* scandal, in which lawmakers were completely bypassed by the Reagan White House in its pursuit of covert actions: “Excluding Congress also excluded one more ‘political scrub,’ one more source of advice about what range the American people would find acceptable” (Treverton 1990, 43). Ethical covert actions depend on an ethical CA process, based on honouring the shared-power prescripts of the Constitution.

Covert action in practice

In tandem with the question of CA process is the critical matter of practice: the actual implementation of the Third Option overseas. What kinds of covert actions have America embraced, how well have they succeeded and how have they stacked up ethically? An examination of these operational dimensions requires another set of criteria beyond, but related to, the democratic principles expressed in the Constitution. This chapter looks next at the scope of covert actions over the years; though in abbreviated form since space constraints prohibit a more exhaustive presentation. The guiding question is: to what degree have America’s CAs reflected a commitment to an ethical foreign policy?

From 1947 to 2020, the scope of US covert actions has been wide. They may be divided into four categories, according to their focus and methodology. By far the most extensively used form has been secret propaganda, or what the CIA refers to – in one of its more creative euphemisms – as “perception enhancement”.

CA as propaganda

In this approach, the CIA has disseminated around the globe what it calls “perspectives” on world affairs, that is, secret media insertions that shine a favourable light on the United States, while portraying its adversaries in dark tones. The messages have been, in most instances, placed into foreign media channels – newspapers, magazines, television and more recently social media – by CIA foreign agents known inside the agency as “media assets”.

Into hundreds of media outlets around the globe, the CIA pumped roughly 70 to 80 insertions per day during the Cold War (1947–1991). This approach seems to have helped in the *coups* against the leaders of Iran in 1953 and Guatemala in 1954, for instance; further, according to CIA officials, the agency assisted significantly in the aftermath of World War II in buttressing fledgling democracies across the latitudes against secret media assaults concocted by the Soviet Union – early examples of the internal manipulation in democratic societies for which Russia became infamous in the United States after its meddling in the 2016 and 2020 presidential elections (Roosevelt 1979; Wise and Ross 1964). In its efforts first to defeat, then when he was elected anyway (in a free and open contest during the 1970s), to topple the President of Chile, Salvador Allende, the CIA expended millions of dollars in propaganda operations.

The agency also ran its own radio stations in different parts of the world, such as Radio Free Europe, to propagate messages worldwide; and smuggled anti-communist books and magazines into Russia, Eastern Europe and other communist countries (Johnson 1989, 22–4). The CIA has gone so far as to encourage its copious media contacts inside the United States to write negative reviews and commentary about books critical of the agency, and positive evaluations of pro-CIA publications; or to attack investigating congressional committees – a disquieting illustration of how on occasion the Langley propaganda machine has been turned against an American audience in an attempt to marginalize critics (Wise 1976).

Recently, the CIA promulgated a steady drumbeat of favourable and similarly worded media coverage inside the United States on the subject of its torture practices against suspected terrorists in the wake of the 9/11 attacks. Current and former intelligence officers appeared up on multiple television and radio talk shows, as well as sending out choreographed emails and twitters, and giving speeches that tried to defend the agency's "enhanced interrogation" methods (Johnson 2018, 201–2). Controversial, too, has been the dilemma of "blowback", whereby CIA propaganda insertions abroad waft back in this media-compressed world to influence American citizens at home.

Political covert action

The CIA's early efforts to thwart communist takeovers in countries around the globe included not just propaganda but also support to pro-Western (or at least independent) political organizations and individuals. British Intelligence – MI6 – has an expression that captures the attempts of spy agencies to influence political events abroad through the judicious dispersal of money: "King George's cavalry", a euphemism for "cold cash to the rescue" – a sure way to influence some people.

The CIA paid money secretly to advance its well-known 1953 and 1954 *coups* (Iran and Guatemala), and supported the Christian Democratic Party in Italy from 1948 throughout the 1960s in its electoral competitions against the Italian Communist Party (supported just as vigorously and secretly by Russian rubles dispensed by the KGB). Neither superpower thought it wise to make its cash interventions openly for fear that the Italian voters would balk at supporting candidates who seemed to be dancing on the strings of an outside power.

Should the United States pay brides to modern-day politicians in other countries, in return for their support of US global initiatives? Critics maintain that the United States would be considered more honourable around the world if, unlike Russia, it refused to use secret political operations – or any other form of covert action – against fellow democratic states. This is a rule already followed by Washington officials with respect to members of the "Five Eyes" intelligence alliance – the spy services of the United States, the United Kingdom, Australia, Canada and New Zealand. Should this principle be extended to all free nations?

Economic covert action

In the economic sphere CAs can become particularly nasty. They often skate across the boundary of ethical propriety, as with proposals to contaminate foreign food supplies; crop and livestock destruction; the incitement of labour strikes and mining harbours to discourage shipping, as well as blowing up electrical power lines and oil depots – favourite operations carried out in Nicaragua during the *contra* segment of the Iran-*contra* affair.

In addition, the CIA (and no doubt the KGB as well) has counterfeited foreign currency to trigger inflationary pressures in a target country; depressed the world price of certain agricultural products vital to the economies of adversary nations – especially devastating in one-crop economies; contaminated oil supplies; cultivated parasites that might be useful for the ruination of crops overseas; diluted pesticides bought in the international marketplace by nations hostile to the United States and attempted environmental alterations via cloud-seeding in the skies over enemy territory.

Here the negative moral implications scream out and such initiatives deserve severe condemnation, especially food, livestock and environmental tampering. As with all covert actions, the Golden Rule provides a North Star: do unto others as you would have them do unto you. Imagine posing the question to an American citizen: would you find any of these operations fair play if aimed at the United States? Few CAs would qualify for a “yes” answer.

Paramilitary operations

Within the realm of PM ops, one confronts the most dangerous, extreme and controversial forms of covert action. They are the responsibility of the CIA’s Special Operations Group (SOG), located in the Special Activities Division of the Directorate for Operations (DO). The SOG’s officers are recruited (“sheep-dipped”, in the odd phrase) from the US military for the most part. The activities they pursue can range from supplying weapons to allies overseas, such as Stinger missiles to the *mujahideen* in the agency’s 1980s struggle against a Soviet army occupying Afghanistan, to managing full-scale “covert” wars – as if anything large in scope could stay covert long. Journalists have amusingly labelled this latter phenomenon “overt-covert action”.

The most significant change in the conduct of paramilitary activities by the agency in recent years has been the adoption of drone attacks against suspected terrorists. Drones, such as the Predator and the Reaper, feature Hellfire missiles nestled beneath their wings that can quickly incinerate targets below, making this most lethal form of covert action in the CIA’s contemporary arsenal. First employed by the second Bush Administration, then (in higher numbers) by the Obama Administration, President Donald J. Trump further escalated their use. Each of these administrations turned to drone warfare not only on authorized battlefields, as in Iraq and Afghanistan, but also in such far-flung locales as Somalia, Yemen and the Maghreb. While some within the DO view the drone as the most

effective form of covert action yet devised, others – including an agency director, John Brennan, a former analyst – see this approach as a troubling departure from Langley’s basic mandate as an analytic organization, not a combat unit. Disturbing, too, has been the “collateral damage” caused by CIA drones, including members of a wedding party in Pakistan mistakenly identified as a terrorist gathering.

Another controversy revolves around whether suspected terrorists should be assassinated by drones, or merely identified by these aircraft for later capture on the ground by US Special Forces for trial in a court of law. One suspect targeted for death was an American citizen, Anwar al-Alaki, who left the United States for Yemen and became a popular radio personality spouting anti-American rhetoric – perhaps driven to radicalism by ham-handed FBI surveillance against him when he lived in the DC area working as a Muslim cleric (Shane 2015). Disputes have arisen, as well, over the target list generated in the Department of Justice (DoJ) and the White House, based on Intelligence Community and Department of Defense (DoD) recommendations. A couple of attorneys in the DoJ are reportedly assigned to establish the kill list, which the White House then approves or disapproves. Critics maintain that this decision is too important for such a limited form of review; as a supplement, they argue, there should be a warrant process (like those provided for national security wiretaps in the United States since 1978), accompanied by reporting to SSCI and HPSCI before the drones take flight on their deadly missions.

Finally, secret cyberwarfare has become a household word and common practice among nations. As Russian manipulation of US elections attests, its potential is unsettling, to say the least – not to mention the possibility of cyberattacks against America’s energy grid, stock exchange, hospitals, schools, air-traffic control and nuclear reactors. Quite properly the United States is ramping up its cyber-defenses – and, as a stand-by, its offenses as well.

CA practice as it relates to process and principles

Covert actions might be thought of as secret intelligence interventions that lie along a continuum marked by Red Zones at either end, like a football field, with most operations taking place on the green expanse between these zones.

The red zone of the ludicrous

One can envision a Red Zone on the south end of the field that encompasses proposed CA initiatives that can only be described as Vaudevillian in nature: so comical, were they not seriously proposed, as to require a quick dismissal by any official with an ounce of good sense. An example of a South Red Zone candidate was the CIA’s proposal to rid Cuba of Fidel Castro, in an operation known as “Elimination by Illumination”. The plan was to spread the word through media assets in Cuba and leaflets dropped over the island that the Second Coming of Christ – the arch anti-communist – was imminent and spelled the end of Fidel Castro, the anti-Christ in democracy’s passion play. An American submarine

would surface off the coast of Cuba and shoot star shells into the midnight skies: the manifestation of Christ's arrival. The people of Cuba would then supposedly rise up against Castro. When this idea was run by the Kennedy Administration at a meeting of the National Security Council (NSC), a chorus of snickers quickly quashed the madcap scheme.

Into this Are-You-Kidding Zone should have fallen, as well, such other CIA initiatives against Castro as sending him exploding cigars and sprinkling depilatory powder in his boots at night to make his charismatic beard drop out. Neither worked. Each of these proposals made it through the CA decision process, which in these instances did not involve formal NSC review – and certainly no legislative oversight.

The red zone of the extreme

At the other end of the CA “football field” – the North Red Zone – are a set of operations that are so repugnant and contrary to American values that they should be automatically denied as well. Here are the most extreme forms of covert action that, one would hope, the US officials would eschew reflexively on moral grounds.⁵ Hypothetically, one can envision these possibilities: using CA methods to disperse chemical and biological agents against a foreign adversary; bringing about major environmental alterations that would harm an enemy or engaging in significant economic dislocations incurred by crop and livestock destruction.

America has never engaged in such practices, although any nation with an advanced CA capability could and, on a couple of occasions at least, government planners in Washington proposed such measures during the Kennedy years. In one instance, the CIA considered undermining Cuban-Soviet relations by lacing sugar exported from Havana to Moscow with a bitter (though harmless) chemical substance, rendering it unpalatable. Discovering this initiative by way of a leak to the White House, a senior NSC aide intervened and had the 14,125 bags of sugar destroyed before they were shipped to the Soviet Union (Wicker et al. 1966).

Another scheme – more chilling – with the codename Operation Square Dance was the product of someone's fertile mind in the Department of Defense, trying to edge the military into the covert action game during the 1960s. This plan envisioned the destruction of the Cuban economy, and the resulting demise of Fidel Castro, by dropping from aircraft onto the island late at night batches of a parasite known as Bunga. This pest craves sugar cane, Cuba's main crop. The overheated DoD planner suggested further that the attack could be “exacerbated and exploited by such measures as spreading hoof-and-mouth disease among draft animals, controlling rainfall by cloud seeding, mining cane fields, burning cane, and directing other acts of conventional sabotage against the cane milling and transportation system”. An exasperated National Security Adviser (and former dean at Harvard University), McGeorge Bundy, rejected the proposal out of hand as beneath the dignity of any civilized nation (Johnson 2017, 92–3).

One does not have to be Immanuel Kant (“Do not evil, though the world shall parish”) to comprehend that some CA activities have no connection – even

remotely – to what the United States stands for. Extreme proposals of the North Red Zone variety ought to be readily recognized and dismissed out of hand.

The middle kingdom

In between the ludicrous and the extreme lie the bulk of CA initiatives. How useful have they been down through the years? Opinions on this question vary widely. On the side of scepticism is a proposal from national security expert Morton Halperin to ban covert actions altogether (Johnson 2019); and Senator Frank Church's lukewarm acceptance of the Third Option, but only in rare cases to thwart terrorists or help friends in narrow circumstances (such as preventing a communist takeover in Portugal in the 1980s) (Church 1976). At the other end of the spectrum, one can find unbridled support for this approach from DCI William J. Casey of the Reagan Administration, an architect of the Iran-*contra* affair, and academician Roy Godson (Godson 1981).

In between are those who accept the need for at least a CA standby capability, for use in emergencies; those who would endorse this means periodically – but only under certain conditions, including most importantly the presence of executive and legislative accountability; and those who recommend an embrace of every arrow in the foreign policy quiver, especially when the United States is at war against another country or a terrorist organization. Two of the most thoughtful policymakers who appeared before the Church Committee to testify on covert action, former Secretaries of Defense Clark Clifford and Cy Vance, argued in favour of retaining a CA capability, but strictly as a last resort when diplomacy had failed and fighting an overt war was too risky and expensive (Johnson 1985, 147–8).

Officers in the DO and their seventh-floor leaders at the agency often point with a special pride to a number of covert actions. High on this list are the CIA's successes soon after the Cold War began in thwarting communist party takeovers in Italy, Greece and Turkey, as well as nations in Asia, Latin America and Africa. Agency officers also view the Iran *coup* of 1954 and the Guatemala *coup* the next year as feathers in their caps. They then skip forwards – quickly over the Bay of Pigs paramilitary fiasco in 1961 – to the agency's secret war in Laos, which lasted from 1962 to 1968 (Prados 2006; Colby and Forbath 1978). In this instance, the CIA played an important role in keeping communist guerrillas preoccupied with civil war in that nation, rather than have them cross the border into South Vietnam and attack American troops.

Another highlight, from the vantage point of the front porch at Langley, Virginia (CIA Headquarters), was support for the *mujahideen* during the Reagan years, helping the Taliban repel the Soviet Army from Afghanistan. A high mark, too, was the agency's response in the wake of 9/11, when DO officers assisted the US military drive the Taliban out of power, after these erstwhile American allies turned against the United States and provided a safe haven for Osama bin Laden (OBL), the Al-Qaeda leader (Coll 2019). Most recent on the list of positive outcomes is the elimination of OBL in 2011, after a decade spent searching for him.

On the assassination front more generally, some at Langley view the capacity of drones to strike down future “9/11” perpetrators as a significant contribution to America’s safety. Some agencies have also found merit in the agency’s propaganda programmes as a way to counter the active disinformation machines of Russia, North Korea, Iran and other nations markedly hostile towards the United States.

Critics of the Third Option are quick to respond, though, that the Marshall Plan, the Truman Doctrine and the placement of American soldiers permanently in Europe and Japan were of much greater importance in thwarting communism worldwide than the Third Option, which played a part only at the margins. The Iran *coup*, they point out further, eventually led to an uprising against America’s puppet, the shah (king), along with a discrediting of the United States that lingers in Iran. Moreover, they argue, Guatemala has continued to endure extreme poverty in the years since the CIA intervened; Langley may have aided the United Fruit Company in its desire to extract bananas more cheaply from Guatemala, but did nothing to help the people of that desperately poor nation. As for Laos, when the PM operations ended in 1968, the agency’s local allies – the Hmung – were decimated by communist forces; and, though the *mujahideen* were successful against the Soviet Army in Afghanistan during the 1980s (thanks in part to CIA-provided Stinger missiles and other sophisticated arms), the Taliban soon turned against the United States and befriended Al-Qaeda as it planned the 9/11 attacks against the United States.

Even critics of covert action usually grant some merit to the agency’s role in routing the Taliban in Afghanistan after 9/11, but they point to bin Laden’s escape for a decade and, even more significantly, the Taliban’s ongoing military operations against the United States today in Afghanistan. On the death of bin Laden, most Americans were pleased about that joint military/CIA operation, although some would have preferred to see him captured and tried in court for his terrorist activities. Critics are generally critical of the agency’s drone programme, labeling it indiscriminate, highly unpopular abroad even with those in the Middle East who favour the United States and likely to result in drone retaliations directed against Americans and their homeland.

Joining a recent director of the CIA, John Brennan, in expressing dismay that the CIA has become a killing machine instead of focusing on its core mandate of intelligence collection-and-analysis is a key congressional overseer, Senator Angus King (I, Maine). He chastises the executive branch for being “the prosecutor, the judge, the jury, and the executioner all in one” when it comes to drone attacks – a development that he sees as “very contrary to the traditions and the laws of this country” (Greenberg 2016, 15). Finally, critics well remember the Bay of Pigs disaster, along with – the lowest point in the modern history of covert action – the deeply troubling abuse of the government’s secret powers during the Iran-*contra* affair (Byrne 2014).

Evaluating the merits and the ethics of covert action

On the positive side, covert action seems to have been useful in its PM forms as a supplement to overt US warfare (as in Korea and Vietnam), along with America’s

struggles against global terrorism. Also, the roll-back of the Taliban after 9/11 was a shining example of how the CIA and the military can work together in emergencies to defeat America's foes.

Less convincing has been the excessive use of drone assassinations, along with the periodic lack of coordination between CIA and DoD drone attacks. Critics make a strong case that, outside of an authorized battlefield, drone warfare should be prohibited altogether. So should assassinations. Despite these widespread reservations about murder-by-drone, in January of 2020, President Trump ordered the death of Qassem Soleimani while this high-ranking Iranian leader and head of the Islamic Revolutionary Guards Corps Quds Force was visiting in Iraq. This decision was an unfortunate use of a US Reaper drone, extending this method of killing to a government official and inviting similar retaliations against US officials by Tehran's secret agents. Outside of official battlefields, killing is *ipso facto* immoral – with the exceptions of immediate self-defence or the careful targeting of terrorist groups proven to have murdered US citizens.

This Trump-ordered hit invites an international free-for-all among state and non-state assassins, whether at the controls of a drone, wielding a poison-tipped umbrella, or wearing a suicide vest. The end result could be international chaos, with outcomes unlikely to benefit the United States – mainly a crumbling world order that would surely endanger America's own leaders. After all, government officials in the democracies live in fishbowls and are comparatively easy targets. As well, assassinations seldom achieve their ostensible goal of bringing peace to a region; and they mostly fail in execution, as the more than 30 plots by the CIA against Fidel Castro testify (Turner 2005).

As for covert actions overall, based on the historical record, one should be sceptical about any claim that the vast majority of such operations have protected and advanced America's global interests. Among the knowledgeable and thoughtful sceptics is former Director of National Intelligence (DNI) Admiral Dennis Blair, who has observed: "if we'd have done none of them we would probably be better off, and certainly no worse off than we are today" (Mazzetti 2013, 80). One of the top leaders on the Church Committee, Senator Walter "Fritz" Mondale (D, Minnesota), concluded that past covert actions have been characterized by "high political costs and generally meager benefits" (Johnson 1985, 224). In brief, covert action has had occasional success and should be kept in reserve, but with the caveat that this method should be resorted to only in emergency situations, most notably as a PM supplement in times of authorized overt warfare or to stymie terrorist activities aimed at the United States and its allies.

While the future is too unpredictable to construct precise and binding rules in perpetuity regarding the proper use of these secret initiatives, some sensible rules of the road have emerged over the years as the United States gained experience in world affairs. A starting place is to acknowledge that PMs in support of authorized overt warfare make sense, as long as they stay out of the Red Zones. William H Webster, DCI from 1987–91, has offered additional benchmarks for deciding on the merits of a proposed covert action. As CIA chief, he demanded answers from

the DO to a series of thoughtful questions before he would approve a covert action (Johnson 2011, 281):

- is it legal (that is, does it follow the approval and reporting rules laid out by Hughes-Ryan and the Oversight laws of 1980 and 1991)?
- is it consistent with American foreign policy and, if not, why not?
- is it consistent with American values?
- if it becomes public, will it make sense to the American people – what is sometimes referred to as the *New York Times* test?

Most important, though, is the vital ingredient discussed at the beginning of this chapter: the pride of place that *process* must claim in any true democracy. The glory of an open society is debate, and the precious gift given to the American people by the founders was a system of government designed to require debate among the branches of government. Sole executive authority was anathema to their philosophy, and, indeed, to the wisest philosophers throughout history. Debate – held within the confines of the CIA (experts) and the NSC (elected officials and experts), along with the SSCI and HPSCI (elected officials and experts) – is the *sine quo non* for elevating the chances of foreign policy success while, at the same time, retaining a high moral standing in America's use of the Third Option.

Further, the United States should always be mindful of a Fourth Option: leading by example – doing the right thing that others, at home and abroad, will respect and admire; acting with a dignity and patience befitting the world's oldest and strongest democracy; staying within the white lines of law and propriety; keeping the high moral ground by pursuing a principled foreign policy. "If America has a service to perform in the world – and I believe it has", observed the chairman of the Senate Foreign Relations Committee in the 1960s, J William Fulbright, D-Arkansas, "it is in large part the service of its own example".⁶ Exploding cigars, poisoned dart guns, foreign crop and livestock destruction, mining distant harbours, the use of torture – these are not the kind of activities that America has valued since its founding. On the contrary, the United States is the nation that supported the Marshall Plan, that sends hospital ships around the world to aid the unwell, that responds to hurricane disasters wherever they may strike, that champions human rights in the international arena.

Two of America's finest diplomats have reached similar conclusions. "When we mine harbors in Nicaragua, we fuzz the difference between ourselves and the Soviet Union", lamented George Ball during the Cold War (Ball 1984, 37). "We act out of character, which no great power can do without diminishing itself". More recently, a former US Ambassador to Mexico with 31 years of service at the Department of State, Roberta Jacobson rues the abandonment of the moral high ground that America once enjoyed. "The loss of those principles makes us 'like everyone else' in a world where 'everyone does it'", she concludes (Jacobson 2019), adding that this loss "makes us less safe, less prosperous, and less of an example".

In contrast to these views, Mike Pompeo, a recent agency director who went on to become Secretary of State in the Trump Administration, recommended a rather different approach to world affairs. “The CIA, to be successful”, he advised, “must be aggressive, vicious, unforgiving, relentless” (Mogelson 2019, 43). He seemed to be channelling his hyper-realist predecessor at State, Henry Kissinger, who believed that morality is something best left for Sunday morning church gatherings, not for use as a guide in the Machiavellian world of international relations. In response to State Department officials who were advocating more US attention to global human rights, Secretary Kissinger reportedly observed, “The State Department is made up of people who have a vocation for the ministry. Because there were not enough churches for them, they went into the Department of State” (Rohter 2003, 7).

Which of these pathways should America follow? That question is for US citizens and their representatives in Washington to resolve. This chapter suggests, though, that the United States has much work ahead if it wishes to restore its moral leadership in the world, becoming again the beacon of hope and democracy that it once was during the early years of the Cold War. Adopting a more discriminating approach to covert action would be a worthy place to begin.

Notes

- 1 Remarks delivered by Kissinger on “Evening News”, *NBC Television Network*, January 13, 1978.
- 2 It would be easy, and entirely wrong, to misconstrue the remarks presented here as an attack on the CIA. Over a 100 agency officers have given their lives for the United States as paramilitary operatives and in other intelligence-related duties abroad. I admire and respect the service given to the nation by its intelligence officers; I am only trying here to evaluate objectively the merits of covert action as an arm of American foreign policy.
- 3 On the importance of morality in the conduct of intelligence activities, see Omand and Phythian, who write: “ethical issues should not be left to the intelligence community to assess alone within that secret world” (Omand and Phythian 2018, 198).
- 4 “Bill’s view on the separation of powers was not overlapping authority keeping all branches in check, but keeping the other branches neutralized, leaving a robust executive power to rule”, observes law professor Douglas Kmiec, who preceded Barr as head of the Office of Legal Counsel in the Department of Justice (Bazelon 2019, 4).
- 5 For a “ladder of escalation” of CAs, rising from modest to extreme proposals, see Johnson (1992).
- 6 112 *Cong. Rec.* 10808 (1966).

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