

# SPOOKS AND WHISTLE-BLOWERS

Jayantha Dhanapala investigates the complex world of espionage and its fallout

Suddenly, there has been a cascade of leaks affecting the sole superpower in the world. First there was Bradley Manning and Julian Assange. Then in May, there was Edward Snowden fleeing with his cache of secrets, first to Hong Kong and then to Moscow. Manning has been exonerated of the most serious charge of “aiding the enemy,” but has been convicted on other charges and was recently sentenced to 35 years in prison. Assange languishes in the Ecuadorean embassy in London while being a candidate in the recently concluded Australian election for a Senate seat.

**ESPIONAGE** The cumulative damage they have caused the security of the US is incalculable, apart from exposing to friends and allies of the US that they have been the subject of cyber-snooping... or to put it bluntly – espionage. As important is the embarrassment they have caused the Obama Administration by revealing to US citizens that in an Orwellian scenario, they have been under relentless scrutiny by their Government in the name of their country being protected from terrorism.

Meanwhile, the argument will go on as to whether Manning and Snowden are conscientious objectors standing up for truth and transparency, or plain traitors violating the oath of secrecy they took before commencing their jobs. The excellent



**ASSANGE FAN CLUB** Supporters of the founder of the whistle-blowing website WikiLeaks gather ahead of a visit of Ecuadorian Foreign Minister Ricardo Patiño, to Ecuador's embassy in Central London in June. Julian Assange has spent over a year at the embassy, after seeking political asylum in a bid to avoid extradition to Sweden for questioning over alleged sex crimes.

documentary film *We Steal Secrets: The Story of WikiLeaks* (directed by Alex Gibney) portrays both Manning and Assange as being neither heroes nor villains, but as citizens with honest

convictions together with their complexes and frailties.

On the latter point, the Pentagon official Daniel Ellsberg – who in 1971, famously leaked the Pentagon Papers during the Vietnam War

– said: “In my estimation, there has not been in American history a more important leak than Edward Snowden’s release of NSA material – and that includes the Pentagon Papers for which I was responsible 40

The writer is a former Ambassador of Sri Lanka and UN Under-Secretary-General. He is currently President of the Pugwash Conferences on Science & World Affairs.



AFP PHOTO/ANDREW COMIE

Security Agency in 2007 with no proper Congressional oversight. He has also disclosed that the Xkeyscore secret computer system used by the United States for searching and analysing internet data about foreign nationals across the world has been in operation.

Human rights treaties do provide for the derogation from such rights under certain circumstances and within certain limits. Article 4 of the International Covenant on Civil and Political Rights is most commonly cited for this. Derogations must be temporary, and they must only take place in exceptional circumstances such as emergencies, periods of civil unrest or natural disasters. Derogations must also be legally proclaimed, have prescribed time limits, and be governed by principles of proportionality and non-discrimination.

Some rights and freedoms such as the right to life, the freedom from torture and slavery are not derogable. The purpose is to have a balance between human and national security. Civil liberty groups in the US argue that the Fourth Amendment of the US Constitution is being violated.

Belatedly, President Barack Obama has called for a discussion on a balance between freedoms and security.

Absent US Senators of the calibre of William Fulbright or Frank Church, the US Congress' reaction to the Snowden leaks has been largely negative, having clearly failed in the tasks vested in its intelligence committees. A few isolated voices like Senator Rand Paul and some Congressmen offered tentative support for Snowden,

years ago. Snowden's whistleblowing gives us the possibility to roll back what has amounted to an executive coup against the US Constitution."

**HUMAN RIGHTS** Democracies pride themselves on their adherence to human rights, and none more so than the United States. However, in the period

after the terrorist attacks of 11 September 2001, there has been a serious encroachment on citizens' rights in the name of counter-terrorism both within the US and abroad. A CIA programme of secret detentions, torture and extraordinary rendition was set in motion, with Guantanamo

Bay as the most notorious festering sore.

Concurrently, Snowden has revealed that PRISM, a clandestine programme of electronic eavesdropping and data mining involving extensive invasion of the privacy of citizens, was undertaken by the National

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identifying his actions as civil disobedience.

An immediate casualty of the fallout over Snowden has been US-Russian relations. After Snowden was granted temporary asylum in Russia, Obama cancelled his visit to Moscow, thereby placing the next round of bilateral nuclear disarmament talks on hold.

**OPEN SECRET** This is not the first time that US-Russian relations have been disrupted by a spying scandal. In 1960, a CIA U-2 spy plane piloted by Gary Powers was shot down over the then USSR and Powers parachuted into Soviet custody. A well-known secret – that the CIA was spying on the USSR – was exposed and a planned meeting between the two presidents Dwight D. Eisenhower and Nikita Khrushchev was abruptly cancelled.

Powers was tried and sentenced to 10 years imprisonment but after two years, he was exchanged for a Russian prisoner. In the Snowden case, the Russians are not involved in espionage, since

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Snowden was not on their payroll. But he was seeking political asylum after leaking secrets he had access to as a US National Security Agency contractor.

President Vladimir Putin's admission of Snowden to Russia cannot be faulted in terms of realpolitik, especially as Snowden has to comply with certain conditions. Indeed, it is Obama who is being faulted by US commentators like Robert Kaplan who wrote: "Because there has not appeared to be

sufficient coherency in America's Russia policy in the first place, the US-Russia dust-up over Snowden seems instigated by Obama toward no larger plan or purpose." Add to that the fiasco over the grounding of the Bolivian President's plane flying over Europe on the suspicion that Snowden was on board. China adroitly avoided causing any problem with the US when Snowden left Hong Kong for Moscow.

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**THE MEDIA** In a frank interview with the New York Times, Snowden gave his reasons for going elsewhere with his story. He said: "After 9/11, many of the most important news outlets in America abdicated their role as a check to power – the journalistic responsibility to challenge the excesses of government – for fear of being seen as unpatriotic and punished in the market during a period of heightened nationalism. From a business perspective this was the obvious strategy, but what benefitted the institutions ended up costing the public dearly. The major outlets are still only beginning to recover from this cold period."

The media in Sri Lanka may well ponder over this message.



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