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The originality of Kaeten Mistry's absorbing article about former CIA-agent and subsequent whistleblower Philip Agee lies in his tenacious argument for a 'wider' reading of this controversial figure, wider than the central character and his whereabouts but also beyond the historical reduction of the matter to Cold War intelligence or to questions of loyalty, treachery, and patriotism. Mistry expands substantially on our account of Agee's personal history, but he also puts it in an international frame ("transnational" in his preferred terminology) of solidarity movements, whistleblowing, protest, and dissent. His article here should be read together with his central contribution to the edited (and pathbreaking) volume he put out last year together with Hannah Gurman, *Whistleblowing Nation*, as his essay there provides an expanded analysis of the U.S. aspect and context. All in all, Mistry's is a persuasive attempt to recuperate and explain the subject-matter and the given moment, but it remains an attempt insofar as the negation is stronger than the positive moment. Some of the constitutive concepts having to do with whistleblowing itself might have been pushed further and in the end, perhaps because of my own uncertainties, I am not clear where, methodologically and substantially, we find ourselves.¹

Philip Agee, now consigned to historical obscurity, was the most militant of the sundry figures in the 1960s and 70s who revealed unsavoury aspects of U.S. intelligence operations, predominantly those of the CIA: spying on U.S. citizens at home, aiding and abetting appalling regimes in the third world, financing and sometime organizing abroad ostensibly 'free' cultural producers, labour unions, and political parties. Agee, to an unusual degree, had been involved in this as a successful operative in Latin America (Equador, Uruguay, Mexico) but eventually he grew disaffected to the point where, in Britain 1975, he published an exposition of his career as an agent. Widely translated, it received substantial international attention. One reason for that attention, beyond the descriptive depth of 'lived experience,' was that *Inside the Company: CIA Diary* named names, names of actual agents in operation as well their associates. This practice and its implications would forever mark Agee's public persona. (Naming names, a frontal attack on *l'esprit de corps* of the organization of course but also, if

¹ Kaeten Mistry, "The Rise and Fall of Anti-Imperial Whistleblowing in the long 1970s," in Hannah Gurman and Kaeten Mistry, eds., *Whistleblowing Nation: The History of National Security Disclosures and the Cult of State Secrecy* (New York, Columbia University Press, 2019). Mistry's and Gurman's collaborative, introductory essay, "The Paradox of National Security Whistleblowing - Locating and Framing a History of the Phenomenon," is of interest here too. Unless otherwise stated, however, my account is referring to Mistry's *JAH* article.

unintentionally, endangering individuals, was in my view a severe error that came both to overshadow the rest of his account and to detract from it).²

His background was not atypical for his erstwhile career: nice Catholic boy, born in 1935 in a fairly wealthy family, attended a Jesuit high school and University of Notre Dame, recruited into the CIA in 1957, firm believer in coldwar orthodoxy, properly trained and with good language skills, sent into Latin America, where he did well but gradually (it's not entirely clear how and when) became acutely aware of the difference between the liberal shibboleths of developmental progress and the actual regimes of often brutal repression that he was called upon to support.³ Still, when he resigned from the Agency in 1968, there were no overt signs of the coming breach. He remained in Mexico, his last posting, drifting from private enterprise into studies and then, increasingly radicalized, moving by means of a series of connections (crucially François Maspero, the leftist publisher) to Paris and London in the early 1970s, where he began working on his book of future notoriety. Inadvertently, he had in fact already alerted his former employer as to his intentions by giving an interview to a radical publication in Uruguay about U.S. meddling in the coming elections and announcing that he was writing a book. In 1974, moreover, the *New York Times* ran a news article based on an interview, "The Disillusion of a C.I.A. Man," that also told of his project.⁴ At the time of his book publication Agee was in Britain, whence he was then deported, after highly contentious procedures, on grounds of 'national security.'⁵ He was not accused of any crimes, nor was there any U.S. warrant that could justify extradition, hence the irregular operation.

There followed deportations, rather more expeditious ones, from France and the Netherlands. Eventually, Agee was allowed residence in Hamburg on a regional, legal technicality. In 1979, in a return to classic early World War practices, the Carter Administration as represented by Secretary of State Cyrus Vance (no less) revoked his U.S. passport, though it was replaced during the 1980s by passports granted by the sympathetic regimes in Grenada (under Maurice Bishop) and Nicaragua (revoked, however, when the Sandinista government came to an end in 1990). His struggles had by then generated what Mistry describes as a transnational movement of support. Agee himself, when permitted, also traveled extensively to publicize the ills of U. covert action.

Astonishingly, he was never charged in the United States and, in 1987, was for the first time able to return for a visit without incident. The draconian Espionage Act of 1917 might have been applied but already the Ford Administration had deemed it difficult as there were First Amendment issues involved (the failure in prosecuting Pentagon Papers leaker Daniel Ellsberg was in fresh memory) and any given open trial would expose CIA personnel to potential charges as well. General legal repercussions ensued however (and not only because of Agee). The central move here by the state (variously represented by all three branches of government) was to shift grounds: rather than holding personnel juridically to secrecy directly on the basis of the information involved, one proceeded by binding officials through private contract law, enforceable agreements not to disclose regardless of content. This amounted in effect to an Official Secrets Act, a way of getting around First Amendment rights. It was the basis, then, for the 'pre-publication' procedures that were instituted for national security officials in 1976.⁵ Other measures followed in the increasingly hawkish climate of the late Carter and early Reagan Administrations. In 1982, the clumsily entitled "Intelligence Identities Protection Act" made it a federal crime to reveal the names of covert operatives, regardless of whether classified or unclassified information had been used and regardless of intent. (Among the sparse number of senators to oppose it was one Joseph Biden of Delaware, who saw, rightly, that it

² Philip Agee, *Inside the Company: CIA Diary* (London: Penguin, 1975). The killing in 1975 of the CIA station chief in Athens, Robert Welch, put the matter in the sharpest possible focus. Agee had not named him and had nothing to do with the event—his home and identity were known anyway. Still, it showed with drastic clarity what might happen.

³ I suspect there is a Jesuit way of reading Agee, but I'm not competent to do it.

⁴ Richard Eders, "The Disillusion of a C.I.A. Man: 12 years from Agent to Radical," *The New York Times*, 12 July 1974, 4.

⁵ On this, see more extensively Mistry, "The Rise and Fall."

would likely stifle “efforts of legitimate journalists to expose any corruption, malfeasance, or ineptitude occurring in American intelligence agencies”).⁶

Agee, meanwhile, persisted in his activism, however constrained by circumstances and often meagre resources. Unflinching, not to say brash, deployment of the CIA in the 1980s, featuring precisely the kind of operations he had revealed and castigated, provided a space (again, “transnational”) for his contentions and indeed reinforced them—though the sheer audacity of the illegalities, for example in Iran-Contra, must have been beyond even his conception. For reasons that are obvious, the 1990s and onwards spelled an inverse shrinking of that transnational space, the empire seemingly reigning supreme, the need for would-be ‘covert action’ correspondingly slighter. From then on, his chief, remaining refuge was Cuba. Indeed, Philip Agee would die in Havana in 2008, surviving in part by running a travel agency to help tourists circumvent visiting restrictions, in part (surely) at the indulgence of the Cuban government.

The last feature (on which Mistry is circumspect) brings to the fore the issue of ‘defection,’ viz. if Agee ever technically or substantially signed up on the other side. He himself liked to say he defected from the United States but not to any other power. Thus he stayed away from ‘the Eastern Bloc’ (Cuba notwithstanding), as his field of activism remained very much Western Europe and the Third World (Latin America and Africa). His previous colleagues, nonetheless, considered him at the very least an ‘objective’ defector, helping the enemy in material ways to undermine and imperil U.S. citizens and intelligence officers.⁷ This, *prima facie*, is a logical position and an understandable one but it leads to no interesting historical questions beyond the traitor/patriot couplet.

So the moment has come to change gears.

Let us begin with ‘whistle-blowing’ and Mistry’s specific subset of that phenomenon, “national security whistle-blowing.” Ralph Nader coined, or at least put into circulation, the term “whistle-blowing” in the early 1970s to describe the kind of unauthorized information to the public from inside corporations or state apparatuses which reveals misdeeds and illegitimate practices, unofficial information that Nader and his outfit encourages, collects and publicizes for the purpose of rectification, legal and political. The scenario presupposes a *Rechtsstaat*, a state of legal integrity and proper procedure, but the perspective is otherwise *individual and ethical*: Nader says that to be a citizen and a proper member of the community is to answer to a higher ethic than that of the discretion, secrecy and loyalty demanded by particular institutions. If there is serious wrongdoing (say, environmental pollution) against the public interest, against the community, a person with insight and knowledge of this is thus *bound* to reveal it.⁸

⁶ See Joseph R. Biden, “A Spy Law that harms National Security,” *Christian Science Monitor*, 6 April 1982. Biden also said the proposed law was “so broadly drawn that it would subject to prosecution not only the malicious publicizing of agents’ names but also the efforts of legitimate journalists to expose any corruption, malfeasance, or ineptitude occurring in American intelligence agencies.”

⁷ Miles Copeland, legendary CIA operator in the Middle East (and father of Stewart, drummer of the Police), in his review of Agee’s book typically foregrounded this aspect, while also acknowledging the remarkable accuracy of his account of work on the ground, indeed calling it nothing short of a model debriefing book for any enemy agency. See Miles Copeland, “Top Secret?,” *The Spectator*, 11 January 1975, 39-40.

⁸ In 1971, Nader gathered some interested parties to a conference on the matter, the proceedings of which appeared the following year entitled *Whistle Blowing: The Report of the Conference on Professional Responsibility*, edited by Ralph Nader, Peter J. Petkas, Kate Blackwell (New York, Grossman Publishers, 1972). See esp. Nader’s introductory remarks, “An Anatomy of Whistle Blowing,” 3-11. The key word here, whistleblowing aside, is ‘professional responsibility,’ professionalism being located in the commitment to the larger public rather than, more narrowly, the bureaucratic organization. One way to dissect this would be through Max Weber’s classic distinction between an ethic of conviction and an ethic of responsibility, but the matter is trickier than it seems. For one thing, Nader would probably see his ‘professional responsibility’ as consequentialist (‘the world and the public will be going asunder unless I speak up’ or some such proposition). The resultant imperative (Speak up!) is at the same time individual and ethical, forthrightly deontological - to

The idea is liberal or perhaps better republican in the eighteenth-century sense of the word. There is a state/corporation/particular interest that forms an inside and a larger, public outside, a community, a civil society. One acts from the inside to enlighten the outside. Whistle-blowing, then, is in Nader's world "an honorable action" and nigh-on Kantian duty. Perhaps one might even invoke Kant's spiritual ancestor Martin Luther, whose 95 theses, though probably not nailed to the proverbial door, were a case of whistleblowing, an insider's public denunciation of corrupt Church use of indulgences ('here I stand, I can do no other' and so on).⁹ The metaphor itself, however, is a bit odd. Taken most immediately from the world of team sports, corporations now running "the ball game" in Nader's telling language, the difficulty is of course that the whistleblower is not comparable to a referee adjudicating a game.¹⁰ Nor is it even strictly analogous to the original, late nineteenth-century use of the whistle, which is to say, by the police. The act of blowing the whistle, nonetheless, does have a pertinent symbolic significance here: the noise is intended to be heard everywhere and the public is thus alerted: 'beware, pay attention, things are awry, action required.' Whistle-blowing, then, is fundamentally a *public* act, addressing the public in the name of the public interest.

Agee, alas, was not a liberal. By degrees he had become instead a straightforward radical. He could not have been more unequivocal about this: "I did not write this book for the K.G.B. I wrote it for revolutionary organizations in the United States, in Latin America and everywhere else. I wrote it as a contribution to the socialist revolution."¹¹ The actions of the CIA, its support for reactionary third-world regimes, were in his considered view the predictable results of imperialism and class interests in the metropole itself and its foreign allies; no systemic change would occur in the former unless there was one in the latter. The object, then, was not to reform the CIA, *it was to thwart it*. Hence the naming of names: undoing the machinery or at least making its workings more difficult. This might not be a convenient standpoint from the vantage point of the Nader Imperative; but it is coherent and until the end Agee acted on it across his universe, addressing a very different 'public' from that of the archetypal whistleblower.

This is where Mistry's singling out Agee's practice as 'national security whistle-blowing' comes into question, as it is indeed the crux of the matter. It is useful to bring in the more extensive, diagnostic typology he and Hannah Gurman offer in their edited volume.¹² They list five sequential aspects: (i) insider revelation on grounds of public interest of confidential information having to do with national security, thus indicating dissent; (ii) the insider's identity substantiates the information; (iii) the state condemns the act as subverting national security; (iv) and goes on to prosecute or otherwise punish the 'perpetrator,' (v) the substance of the information is displaced by discussions about the person in question and

be a 'professional' anywhere and everywhere entails acting individually according to the precept that it would be unprofessional not to speak up, hence irrational. There is more to be said but we are already beyond the present brief.

⁹The 'nailing' (or actually posting) would have been customary academic practice then as it still is in some Germanic systems such as the Swedish: 'nailing' one's thesis is not only an expression to signify that the tome is really finished but also the actual hanging of the printed thing in the university entrance on a piece of twine and so permitting the 'public' to inspect it, the opus to be dealt with on a certain date at a public ventilation led by a state-appointed 'opponent.'

¹⁰ See the magazine feature (Julius Duscha, "Stop! In the Public Interest.") on Nader and "Nader's Raiders" in the *New York Times Magazine*, 21 March 1971, 4, 6, 12-15. Nader's mention of "ball game" appears on p. 14. The clever designation "Nader's Raiders" was not his own but William Greider's in the *Washington Post* (13 November 1968); I have not been able to access it to see whether the reference is indeed to raiders in general or to the (then) Oakland variety.

¹¹ Eders, "Disillusioned," *New York Times*, 12 July 1974, 4.

¹² See Gurman and Mistry, "The Paradox of National Security Whistleblowing - Locating and Framing a History of the Phenomenon," in their *Whistleblowing Nation* Incidentally, I can't quite see the paradox: "it is a phenomenon widely recognized, yet systematically denied" (28). The state denies its legitimate construction, to be sure, preferring to call it espionage or worse; but that is a definitional issue and a question of who does the defining and the recognizing. The state recognizes it/whistleblowing in the domestic sense but not when it concerns a 'public' beyond the border. That may be deplorable but is it a paradox? An antinomy?

his or her act as such. National security whistle-blowing, accordingly, is to be distinguished from ‘leaking’ as well as ‘investigative journalism,’ both of which may well come to reveal substantially the same thing but involve different logics and frames. Publication by the press, for instance, is exceedingly difficult legally for the state to hit. Leaking, on its part, is a broader phenomenon, often involving authorities themselves divulging secret information for instrumental and partial reasons. The pivotal aspect from the Mistry/Gurman perspective is thus ‘whistle-blowing’ as a public act that is in the public interest. Leaking as such is by implication anonymous and ‘secret.’

The distinction, it should be said, is scarcely razor-sharp. Ellsberg’s move was certainly a ‘leak’ in some sense and arguably so were Chelsea Manning’s and Edward Snowden’s.¹³ Sociological and observational rather than conceptual, the Mistry/Gurman diagnosis is, however, handy for heuristic purposes. One must ask then: is this what Agee is doing and the reaction he causes? In some respects, especially concerning the state response, the answer is yes. The category of ‘dissent,’ though, raises doubt. Agee spent his life in exile making life as miserable as he could for his former colleagues and acting in the name of anti-imperialism. Is this ‘dissent’? I think not. It is beyond dissent. True, he and his allies invoked human rights (the year of his book’s publication, 1975, is also the year of Helsinki after all) and pointed out the gap between the western promotion of ‘dissidents’ in Eastern Europe and the simultaneous hounding of oppositional figures such as himself in the west, but ultimately Agee will have grasped this as predictable politics as usual. Again, he was not a dissenting liberal.

A radical alternative to his stance (stretching things a bit) might have been some version of William Appleman Williams: positing a good and a bad ‘America,’ indicating that ‘America’ could choose to follow its bright and utopian promise abroad if it abandoned the crass and invasive Open Door approach, inversely opening up the possibility of a decent CIA, recasting it perhaps as a limited collector of intelligence or at any rate not engaging in the kind of excesses on display. Agee did not believe in that kind of alternative.¹⁴ In the second place, Agee was not an insider but by the time he published his retrospective revelations he was very clearly an outsider, his subsequent life spent doing anti-imperialism. The distinction of these revelations, moreover, lay less in the overall contours than in the concrete form of experience. The ‘interventionism’ of the CIA, beginning in the 1950s with Iran and Guatemala and continuing onwards to the Bay of Pigs and the Congress for Cultural Freedom, was well known and indeed well publicized (though let us note in passing that the organization was more elastic politically than it appeared).¹⁵

A more fundamental question is what happens to the inside/outside demarcation when ‘national security’ is involved. Mistry distinguishes, I think accurately, whistle-blowing in this realm by noting that while the state (i.e. the U.S. state) often

¹³ See, in part, “Creating Uncertainty, Casting Doubt: U.S. Intelligence Leaks from Reform to Spyware for Sale,” Matthew Jones’s contribution to Gurman/Mistry, *Whistleblowing Nation*. Jones puts forth a ‘blurrier’ picture. Also see the exhaustive delineation of the uses and abuses of leaks by David E. Pozen, “The Leaky Leviathan: Why the Government Condemns and Condone Unlawful Disclosures” *Harvard Law Review* 127:2 (December 2013): 512-635.

¹⁴ Williams might well have been skeptical, too, but he was thoroughly ‘patriotic.’ As an old Midshipman of Annapolis, he was outraged by the role of Robert MacFarlane, another alumnus, in Iran-Contra, and he wrote in indignation to the Commandant to this effect. As Lloyd Gardner reminds me, however, Williams never wrote much about intelligence. Williams’s classic articulation of his perspective is of course *The Tragedy of American Diplomacy* (Cleveland: World Press, 1959).

¹⁵ I have here in mind the example of the CIA relationship with Franz Fanon. In teaching Fanon, I had always wondered at the fact that he was flown to Bethesda, MD, in 1961 for treatment of his leukemia (which would kill him) courtesy of the CIA and then back to Tunisia for his eventual burial across the border in Algeria. How could this possibly be? Thomas Meaney, in the preface to his dissertation and then in a marvelous research note in the *American Historical Review*, “Frantz Fanon and the CIA Man,” *American Historical Review* 124:3 (June 2019): 983-995, sorted out the problem by tracking down (with a little help) one of the two CIA operatives who engineered this. It turns out the CIA members had a fairly clear idea of the National Liberation Front (FLN) and the dynamics of the situation in Algeria, hence the friendly move to assist Fanon, a doctor at his wit’s end because of his terminal illness—even though he took a very dim and indeed harsh view of the United States. The two operatives actually attended Fanon’s funeral. The simple point is that the CIA could evince surprising political sophistication, Gramscian hegemony perhaps, crudely speaking, rather than the pure repression Agee tended to attribute to it.

tolerates and indeed protects 'domestic' versions, it goes after any breaches of 'national security,' whatever the actual misdeeds revealed.¹⁶ He thinks this is a contradiction, but I am not convinced. The legitimacy (as opposed to 'legality') of whistle-blowing in the domestic sense is grounded, as indicated, in the postulated existence of a public, a community interest, a sphere of publicity and transparency, as superior to the rules of secrecy marking the particular interests of state and corporations. The state can and does recognize this possibility because the misdeed and the damage to which we are alerted is done in specific cases and *within*. Blowing the whistle generally marks no systematic attack on the legitimacy of the state as such. Legitimacy and efficiency can even be improved. Two transgressive moments are thus involved, one illegitimate, the other one not. First, there are misdeeds carried out in either legal or illegal fashion but always illegitimate (again, 'pollution' is a good example); second, there is a whistle-blower who, against the rules of the organization, reveals this in public and to the public. Whatever the legality involved, then, the second is legitimate, the first is not. In the case of 'national security,' this does not obtain, nor indeed can it.

Here I have in mind what Michael Mann used to call "geopolitical privacy," by which he meant the continued absence of democratic discussion and control of foreign relations despite the increasing widening in the nineteenth and twentieth century of participatory democracy: the public sphere expanded domestically but remained remarkably limited in matters pertaining to the orientation and policies vis-a-vis the outside, as well as to the machinery deployed.¹⁷ In the United States, the history of this structural feature is more complicated. On the one hand, the disjunction between inside and outside has been sharp, sharpened in fact by the systemic privilege of the Executive and the relative lack of a ruling class extensively anchored in geopolitical space. On the other, *ipso facto*, there has been a certain erraticism as new administrations can abruptly change policy; but there have also been openings for determined minorities to affect policy from the 'public' outside. With its epic rise to global power after World War II, the United States then came to retool this (up to a point) through the highly effective 'Cold War consensus' and, relatedly, the decisive invention of 'national security,' along of course with the massive expansion of the state apparatuses attached to that term. 'National security' is indeed an invasive phenomenon, inherently expansive as it can be applied to ever-wider circles depending on need, dynamically involving as it does potency as well as description. One might think of it is an empty signifier, to be filled with whatever fits the bill, its function essentially being its own positing. Having no inherent limits, it leads (unless contained) to proliferating and polluting practices of classification and secrecy: 'always classify, unless explicitly told not to!'¹⁸

Thus 'national security' diminishes the public sphere where whistle-blowing can be legitimate. It also restricts the possibility of democratic dialogue. Once the stamp of 'national security' has been applied, revelation is in any event by implication to make oneself beneficial for a potential enemy. In the most extreme case, the state of exception, state and public tend conceptually to become coterminous and there is no legitimate whistleblowing at all. In fact, with the exponential growth of the national security apparatuses and the concomitant expansion in what successive Administrations have chosen to include in their scope of concerns, we are now in a situation where nothing much in the 'domestic' sphere is excluded.¹⁹

¹⁶ On this see esp. Mistry "The Rise and Fall," in Gurman/Mistry, *Whistleblowing Nation*.

¹⁷ Particularly relevant here is Michael Mann, "War and Social Classes: into Battle with Classes, Nations and States," in Mann, *States, War, and Capitalism: Studies in Political Sociology* (Oxford: Blackwell, 1988).

¹⁸ Gurman and Mistry mention ("Paradox," 18) that in 2012 the government managed to classify no less than 95 million documents - an absurd number. It has come down since but is still absurd. Meanwhile, it is symptomatic that constant invocation of 'national security' in official proclamations fail to advance any definition of the matter, much less conceptualization. See Laura K. Donohue, "The Limits of National Security," *American Criminal Law Review* 48:4 (Fall 2011): 1573-1756.

¹⁹ If President Franklin D. Roosevelt, in one of his registers, extended security concerns to the entire world irrespective of borders and distances, the cold war and 'national security' invaded conversely the domestic sphere very quickly after the war - the cold war as a total one wherein the domestic aspect is in fact of paramount importance, the 'health' of the whole and so forth. Here there is also a notable shift from a 'democratic' conception affirming citizenry competence in judging affairs of state (domestic as well as foreign) to one

The anomaly, and it is a big one, is revelation of misdeeds committed in the name of ‘national security’ *against the public*. Daniel Ellsberg’s Pentagon Papers may be understood in that manner, the nation/public having been vastly misled about Vietnam by the powers that be. So can perhaps Edward Snowden’s huge data dump, which showed extensive spying on American citizens. Philip Agee, by contrast, was energetically pursuing U.S. representatives and actions *abroad*. His audience and the public that he was informing and mobilizing were (chiefly) those on the imperial receiving end in a wide swath of foreign lands.

If the inside/outside line is recast because of domestic effects—‘the public’ reappears as ground so to speak—it remains that the practice of whistle-blowing in matters of ‘national security’ can never be recognized by the state on the level of principle. In *public* discourse, then, pushing off seven thousand pages that reveal the real strategic analysis of the continuing debacle in Vietnam can be conceived as legitimate, whatever the legal ramifications. From a state perspective, however, any such disclosure must be at once unlawful and illegitimate. *Specific cases* might—pragmatically—turn out to be acceptable *de* and *post facto*, but the premise must be ‘no exceptions.’ There is no conceptual basis, then, on which the state can recognize the right or even convenience of whistle-blowing in the realm of national security. To do otherwise would be to relinquish the whole concept of national security.

We might well think that that it would in fact be a good idea and so proceed to propose some other way of framing the conduct of U.S. foreign relations. Fixation on ‘security’ has indeed led to many a mistake, even in its own terms. *Normatively*, then, Mistry (and Gurman) are quite right to be critical of the vast growth of the national security state and the constrictions it imposes on democratic space. That space, it must then be said, has undergone some drastic alterations in recent times, in which context one may go back to 1975 again, the “Year of Intelligence” as the New York Times labelled it in early February that year.²⁰ The Newspaper of Record did not have Agee in mind here but the plethora of congressional investigations of the deeply tarnished intelligence apparatuses. This, one must recall, was only six months after President Richard M. Nixon had resigned in disgrace, in part because his Plumbers had broken into the office of Daniel Ellsberg’s psychiatrist. In 1975, uniquely, neither the president nor the vice-president of the United States had been popularly elected. In this moment of legitimacy crisis (I think the term applies), the Ford Administration managed to execute a clever set of moves that, appearance to the contrary, essentially saved a good deal of leeway for the intelligence sphere, especially the huge but decidedly opaque National Security Agency.²¹

I mention this because intelligence in cyberspace along with war in cyberspace and hence, too, ‘security,’ national and otherwise, have become something rather different from what one might have imagined when Philip Agee was going after his former employer in Langley. Fakery on a massive scale, troll factories, spyware, hacking, computer trojans to paralyze potential enemies, ‘weaponized’ misinformation, deterritorialization, ‘made’ realities, identity swaps, every step we take subject to limitless data gathering (and so on)—all of this indicates a public sphere very remote from, say, the concepts of John Dewey or for that matter Jürgen Habermas. The inside/outside demarcation holds no longer, if it ever did. In this new and dystopian version of the ‘transnational,’ it is not clear who is who, who fights whom, who actually speaks and in what name, what and where the public is, and what it means to render it secure.

in which ‘expertise’ and complexity becomes the order of the day, the multitudes best kept out. On this, with particular emphasis on the legal ramifications, see Aziz Rana, “Who Decides on Security?” *Connecticut Law Review* 44:5 (July 2012): 1417-1490.

²⁰ *The New York Times*, Leader, 8 February 1975.

²¹ On the Ford Administration, see the revelational article by Peter Roady, “The Ford Administration, the National Security Agency, and ‘The Year of Intelligence’: Constructing a New Legal Framework for Intelligence,” *The Journal of Policy History* 32:3 (2020): 325-359. As Roady shows, the NSA was not effectively constrained and the intelligence agencies were generally able to preserve their control over the kind of information they were required to submit. The defensive operation featured an interesting set of figures of future note: Antonin Scalia, Dick Cheney, Donald Rumsfeld, Robert McFarlane, Brent Scowcroft and Laurence Silberman.

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