

9-22-2000

The Pollard Case and the Nature of Espionage

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Recommended Citation

Editor (2000) "The Pollard Case and the Nature of Espionage," *International Bulletin of Political Psychology*: Vol. 9 : Iss. 10 , Article 1.
Available at: <https://commons.erau.edu/ibpp/vol9/iss10/1>

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International Bulletin of Political Psychology

Title: The Pollard Case and the Nature of Espionage

Author: Editor

Volume: 9

Issue: 10

Date: 2000-09-22

Keywords: Espionage, Pollard, Treason

Abstract. This article describes some common misconceptions in evaluating the appropriateness of penalties for individuals convicted of espionage.

There is still significant political pressure from multiple sources throughout the world to free Jonathan Pollard. (The pressure has even become a feature of the ongoing United States (US) Senatorial electoral contest between the US First Lady and US Representative Lazio in New York and still comes up during negotiations monitored and facilitated by the US Government (USG) on Israeli-Palestinian National Authority Issues.)

Mr. Pollard was convicted of conspiracy to commit espionage against the USG while he was a civilian intelligence analyst for the US Navy. Specifically, the conspiracy was related to passing classified information to representatives of the Israeli Government.

The rationale of supporters advocating for his release is based on several misconceptions about espionage. First, it is asserted that he was involved with an ally of the USG and, therefore, his behavior was both understandable, harmless, and even supportive of USG security interests. However, even the closest allies have differences of security interests and needs. Even the closest of allies may be differentially penetrated by neutral or hostile intelligence assets. Even the closest of allies may have rough spots in their relationship that make the joint holding of sensitive information problematic. Even the closest of allies may become adversaries in novel and unexpected ways. Moreover, a witting espionage agent may be the victim of a "false-flag" operation and actually be unwittingly passing information to an adversary.

Second, it is asserted that the nature of the information passed to Israel had no potential to harm the USG. However, the opportunity and threat potential of information inevitably changes with time as various aspects of the political world change. The fact that much of the information apparently was highly classified suggests that the threat potential was high. A counterargument that information is often over-classified or needlessly classified begs the question of the sensitivity of the information in question and the ethics, morality, and expertise of Mr. Pollard in arrogating to himself the authority to make such determinations.

Third, it is conveniently overlooked by Mr. Pollard's supporters that he knowingly violated security rules, regulations, policies, and guidelines on the handling of classified information. At times such violations might be in the national interest when the information is classified not in the national interest but in the interest of covering up embarrassments of individuals who have failed their charge in the national interest. However, this seems not have been remotely an Issue in the Pollard case.

Pollard's supporters also argue that while conspiracy to commit espionage may have occurred, treason or conspiracy to commit treason--i.e., the intentional act of impairing the security well-being of the USG--did not. They maintain that espionage pales before treason. This may be true according to some moral and ethical criteria of the person and according to some conceptions of deontology. However, security

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laws--at least in the abstract--are most often based on utilitarian concerns not individual and deontological ones. In fact, the reification of individual intention over collective consequence characterizes a narcissistic perspective that itself poses a threat to national security as much if not more so than corrupted nationalism poses to the integrity of the individual. Pollard's supporters may be as guilty of hubris as he is. (See Cramer, R. E., Manning-Ryan, B., Johnson, L. M., & Barbo, E. (2000). Sex differences in subjective distress to violations of trust: Extending an evolutionary perspective. *Basic and Applied Social Psychology*, 22, 101-109; Elangovan, A. R., & Shapiro, D. L. (1998). Betrayal of trust in organizations. *Academy of Management Review*, 23, 547-566; Lauer, E., & Semmelman, J. Pollard's crime. (September 18, 2000). *The New York Times*, p. A30; Menzel, D.C. (1999). The morally mute manager: Fact or fiction? *Public Personnel Management*, 28, 515-527; Mitchell, C.E. (1999). Violating the public trust: The ethical and moral obligations of government officials. *Public Personnel Management*, 28, 27-38,). (Keywords: Espionage, Pollard, Treason.)