

The Essence of Ethics in Influencing Intelligence: A critical analysis of trends and models in the context of South Sudan.

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Abstract: *Ethics and Intelligence are inseparable parts of the same coin because those who are involved in the intelligence gathering and analysis are required to observe moral principles. In compliance with the above statement, this article investigates the Essence of Ethics in Influencing Intelligence Analysis. The relation between intelligence and Ethics had generated a hot debate among experts of ethics and intelligence. The debate is based on the morality aspect of intelligence gathering, analysis as well as the outcome of the analyzed intelligence information. It should be noted that, as the practitioners of intelligence adjust to changing environment of the twenty first century, intelligence experts should adhere to ethical principles when performing intelligence tasks. The issue under scrutiny here is to explore acceptable ways of intelligence practice.*

Key Words: *Intelligence, Ethics, Do no harm, principle, data, analysis, gathering, information, threats, interest, state, community and morals.*

1. An overview :

This is a general call to a coherent ethical conceptual framework which spelt out when, how and to what extent is the intelligence justified. The link of intelligence and ethics was opined by Quinlan Michael who says, there is no aspect of public and private human activity that can claim an analytic entitlement to the make the moralist to keep quiet, thus intelligence should have no exception about the concept of morality.¹ The pivotal issue in the debate of intelligence ethics was branded as oxymoronic, thus, this indicate the tension between the belief that various aspects of intelligence gathering and analysis have been disreputable.² Omand argued that, we can't understand the nature of vital threats facing our country without the use of secret intelligence making the political institutions to have ethical obligation in protecting the citizens.³

Ethics deals with the application of morality in the society which can be determine by right or wrong. The debate about the role played by ethics in the intelligence collection, analysis and dissemination could be measured by the standard that is generally acceptable in the society. This can be norms, rules, and regulations set by the government and intelligence institutions to protect the rights of individuals as well as adhering to the principle of protecting the state security. In the establishment of ethical principle of intelligence thesis, Herman argues that, the sovereign states' international reputation should be determined by the ethical judgment, consistency and reliability to international norms and standards.⁴ In the same note, he maintained that, intelligence deals with information gathering and has nothing to do with overt actions of the intelligence that can cause harm to individuals, hence; no person can be harm or inflict by intelligence activity by agrees that sometimes, intelligence institutions can be involved in covert action as the last resort in acquiring the information.⁵ Herman Michael position was supported by Cogan Charles when he stresses that, there a paradigm shift in the intelligence because its experts and officers have change from gatherers to hunters.⁶ He believes that, in the times to come, intelligence should not be sitting back by gathering information, analyze and disseminate it

¹ Quinlan, M (2007). p.2

² Ibid, p.1

³ Omand , D. p. 116

⁴ Herman, M (2004). p.39

⁵ Ibid, Pp.39-40

⁶ Cogan Charles, (2004), p.317

but rather hunt for intelligence information as a means of tracking the culprit cause insecurity within the state.⁷ Furthermore, the dilemmas facing intelligence experts, institutions and government arise from the fact that intelligence deals with national interests. This dilemma can be resolved by examining the how intelligence influence human rights. This was best exemplified by Moyn Samuel when he says that, you cannot talk of ethical intelligence without emphasizing human rights because human right is about promoting morality in the society which is the responsibility of the sovereign state where intelligence institutions are partners.⁸ Individual rights transcend state's rights, therefore; the state has an obligation to intervene in the activities of intelligence which violates human rights within the society.

2. The Test of intelligence ethics

The integrity of intelligence is put to the test even more in a precarious situation like South Sudan. Intelligence services and agents need to move through a complicated and unstable environment with tact, discretion, and a thorough grasp of the local dynamics. In a fragile state like South Sudan, ethical issues in intelligence collecting and operations are crucial to preventing the escalation of already-existing tensions and conflicts. This entails preserving the values of accountability and transparency, protecting civilians, and defending human rights. Intelligence officers also need to be mindful of the possibility that different parties may manipulate or take advantage of their actions for their own gain. This calls for extreme caution and vigilance when handling sensitive data and interacting with many parties. In order to establish credibility and confidence, intelligence organizations also need to collaborate closely with local authorities and communities. In the absence of this, intelligence activities and collection could be perceived as hostile or invasive, which would increase instability and insecurity. In general, evaluating intelligence ethics in a precarious situation like as South Sudan is a difficult and nuanced balancing act. It necessitates a thorough comprehension of the regional context, a dedication to maintaining moral principles, and a readiness to interact openly and inclusively with regional stakeholders. In order to contribute to peace and stability in South Sudan, intelligence agencies must navigate these obstacles with honesty and caution. The best test of intelligence ethics that establishes the ethical intelligence thesis is based in the authority of those who are involve in approving the intelligence activity before the public if the action is manifested to the public.⁹ The test of intelligence ethics comprises the do no harm and surveillance models as explored herein:

2.1 Do no harm Model

The first section of this paper examines Do no harm concept as an ethical intelligence perspective. This was highlight better when Feinberg says, the first instance in determining an ethics against harm start with the realization that individuals have some essential interests for their welfare and those that make them vulnerable in the external environment.¹⁰ These essential interests are the pre-conditions which should be maintained for individuals to accomplish their ultimate goal as well as aspirations. Hence, Feinberg Joel brand essential interests as 'welfare interests'¹¹ while Rawls John names them 'primary goods'.¹² Therefore, no matter what name was given to these interests of the above scholars, it all means one thing and the essential interests include: personal physical and mental integrity, liberty, privacy, autonomy and self-worth. Moreover, in the absence of these essential interests, individual members in the society cannot pursue other ultimate goals, interests, purposes and plans thus; damaging these essential interests can lead to a serious harm regardless of the repercussions of the outcome.

The concept of do No harm in associations with intelligence, the issue of concern deals with the kind of physical and mental treatment given to individual in the process of intelligence collection especially the conditions and pain. Scary Elaine terms this as voice of the Body.¹³ When collecting data for intelligence analysis, physical attack could be involved which violate essential interest through striking, amputating, cutting, severe damage to body organs and stress position meant to inflict pain on individual over a given period. Another issue under scrutiny on the emphasis of Do No Harm in adhering to ethical principle of intelligence collection and analysis is liberty of individuals. The main concern in liberty and intelligence is the question of when and how individual suspected to have intelligence information can be

⁷ Ibid, p.318

⁸ Moyn, S (2010), p.13

⁹ Turner, S (1985), p.48

¹⁰ Feinberg, J (1984), P.37

¹¹ Ibid, p.37

¹² Rawls, J (1971), p.62

¹³ Scary, E (1985), p. 45

detained.¹⁴ According to Bellaby Ross, there should be equilibrium between intelligence collection and being sensitive to threat posed to individuals in the process of intelligence gathering to avoid the violation of personal liberty.¹⁵

In dealing with concept of Do No Harm to promote ethical principles in intelligence institutions, the violation of individual's essential interests should be prevented because they are important in making individuals to pursue their aspirations, goals and aims of life. Therefore, the problem of intelligence institutions could be manifested when some of their intelligence activities conflict with individual's essential interests.¹⁶ Privacy is an essential interest that makes the intelligence institutions to come into conflict with individuals because intelligence's tasks deals with collecting information of individual directly or indirectly but someone may wish to keep that secret. The best in illustration ethics and intelligence is that communication intelligence because it is an important aspect of human life and the development in technology is a great testimony, therefore; it is vital for intelligence institutions to intercept these communications as put by Lowenthal Mark that, communication in the intelligence has given insight into what could be said, planned and considered by friends as well as enemies in gathering intelligence information.¹⁷ This interception of individual's communication is a violation of personal privacy which is one of the essential interest of individual making intelligence institutions to violate ethical principle pertaining individuals' privacy.

In South Sudan, where a complex web of political, social, and economic elements contributes to fragility, it is critical that intelligence testing be carried out in an ethical and responsible manner. The Do No Harm approach offers a framework for guaranteeing that testing does not worsen pre-existing tensions or harm already marginalized people. It places an emphasis on reducing negative effects and fostering positive outcomes. Unethical testing techniques could have serious repercussions in a vulnerable context like South Sudan, including increasing mistrust, escalating already-existing conflicts, or maintaining inequities. Testing intelligence practitioners can make sure that their work is ethically guided and emphasizes the rights and well-being of the affected communities by following the Do no harm model's tenets. In addition, the Do No Harm model emphasizes how crucial it is to interact with local stakeholders, comprehend dynamics unique to the location, and keep power disparities in mind when conducting intelligence testing exercises. Practitioners can more adeptly negotiate the complexity of delicate environments and reduce possible harm by elevating the views and perspectives of people most impacted by testing. In general, ethical and responsible behaviors that put the rights, dignity, and welfare of all parties concerned first must be promoted by implementing the Do No Harm model of test intelligence ethics in the precarious setting of South Sudan. By following these guidelines, practitioners can help to develop positive relationships, increase trust, and eventually advance the objective of ethical testing in precarious situations.

2.2 The Surveillance Model

Surveillance is another way in which intelligence task conflict with individual essential interests through the violation of privacy and autonomy. Some example of surveillance intelligence includes CCTV cameras and covert reconnaissance which Solove D refers to as dataveillance and data mining, in his view data surveillance deals with monitoring individual footprint he/she left in performing any activity in both digital and real world while data mining deals with collection of individual personal details for intelligence analysis.¹⁸ Intelligence institutions do violate individual autonomy when its used manipulation as well as deception, for instance, the use of unofficial covers where intelligence officer get a new identity to access new areas and individuals details which can be manipulated to suite intelligence needs and purpose.¹⁹

3. The Just war theory :

The second section of this paper will examine the concept of Just War theory as an emphasis of just intelligence principle by justifying the harm cause during intelligence gathering and dissemination. In the first section of this paper, it has been established that intelligence could cause a great harm to individual essential interests such as interference with individual autonomy and privacy. Therefore, the concept of Just War theory would justify areas where intelligence has been offensive in its dealings by avoiding these harms. In Bellaby Ross view, intelligence is meant to protect the interest

¹⁴ Bellaby, R (2012). p.100

¹⁵ Ibid, p.101

¹⁶ Ibid, p.104

¹⁷ Lowenthal, M, p.71

¹⁸ Solove, D.J (2004), p.23

¹⁹ Foucault, M (1979), p.202

of the political community and should be done in a right way.²⁰ According to Orend just war tradition was designed to govern and limit the activity of war and harms brought about as a result of war as well as restraining the public authorities to use violence for the protection of state's interest and maintaining international security and peace.²¹ The just war theory in this paper will establish a just intelligence principles that will reduce the harm cause by intelligence institutions by validating why these institutions cause harm in the process of intelligence gathering as follows:

3.1 The principle of Just Cause

The first issue in proofing the ethical principle of just intelligence is the concept of just cause. The just cause in intelligence deals with providing sufficient threat as the justification for the hard that could be caused in the process of intelligence gathering and dissemination because the intelligence institutions should be responsible for safeguarding and promoting national security at all cost. Based on degree and type threat and harm associated with it, thus; the more harmful the act maybe, the grander the evidence needed to justify the reality of the threat.²² Activities that causes low harm need reasonable suspicion of the threat for the justification of the cause while that activities with greater harm needs concrete evidence for the justification of the real threat. Intelligence personnel in South Sudan must ensure that their actions are based on a just cause – that is, they must have a legitimate reason for engaging in their intelligence work. This can include protecting innocent civilians, preventing further violence, or upholding human rights. By adhering to this principle, intelligence professionals can ensure that their actions are ethically justified and aligned with moral values. Furthermore, the principle of Just Cause can also serve as a test of intelligence ethics in South Sudan by providing a framework for evaluating the consequences of intelligence activities. Intelligence personnel must consider whether the potential benefits of their actions outweigh the potential harms, and whether their actions are ultimately serving the greater good. In a fragile context like South Sudan, where conflicts and violence are pervasive, intelligence ethics are of paramount importance. By upholding the principle of Just Cause, intelligence personnel can navigate the complex ethical challenges they face and ensure that their actions are guided by ethical considerations and moral principles.

3.2 The principle of the right authority

Secondly, just intelligence applies ethical principle of the right authority which states that, the intelligence institutions must have the authority for collecting the data from the right individual to sanction the harm, moreover; the intelligence institutions should be authorized by the body that has the capacity to monitor the application of just intelligence principles for effective gathering of intelligence information without harm and biasness.²³ This was justified by Omand David when he says; there should be need for proper oversight of intelligence activities from outside institution that could protect the interest of the political community.²⁴ The best example on the use of right authority as an indication of just intelligence is that of wiretap warranty which was used by Anglo-American intelligence which has an oversight mechanism for intelligence by using judiciary branch to oversee the intelligence activities.²⁵

In South Sudan as well as other contexts, ethical activity must pass the right authority test. This idea essentially says that people should only obey orders or directives from those who are legally authorized to provide them. This can guarantee that choices and deeds are motivated by legitimate and ethically sound methods. When assessing the morality of actions in the unique setting of South Sudan, where complicated power relations and issues with leadership and governance may exist, the application of the right authority principle might be very important. In order to respect this value, people and organizations should make sure that their actions are compliant with established norms, legal frameworks, and lawful authorities. A culture of honesty, accountability, and respect for the rule of law can be fostered in South Sudan by individuals upholding the right authority principle. Using the values of justice and fairness as a foundation, it provides guidance when faced with moral conundrums.

²⁰ Bellaby, R, p.108

²¹ Orend, B (2006).

²² Bellaby, R, p.110

²³ Ibid, p.111

²⁴ Omand, D (2007), p. 165

²⁵ Bellaby, p 113

3.3 The principle of promotion of ethical intelligence

Thirdly, in promotion of ethical intelligence, the institutions mandated to collection intelligence information should adhere to the principle of right intention when handling individuals because the intention involved in the act alter the moral quality of the intended outcome. The intention of intelligence activities should be made part of intelligence moral discourse.²⁶ Lackey D.P put it well when he emphasizes the role of leaders in associating their decisions with intention to avoid slip to war.²⁷ In appropriating the principle of right intention to intelligence, the expert of intelligence should use the intelligence data for the intended purpose rather than economic, political and social objective for it to be morally permissible, moreover; the logic of just cause should not be applied as a pretext for hosting unrelated series of actions. For instance, the logic of just cause intelligence should be utilize in assessing and determining the reality of threat, its intention and the means used in relation to threat under scrutiny.²⁸ The just intelligence principle should prevent the diversion of intelligence to personal, economic, social and political benefit of the individuals who would like to use the intelligence institution to accomplished their person interests. The capacity to identify, comprehend, and successfully negotiate difficult ethical dilemmas is referred to as ethical intelligence. People can become more conscious of moral quandaries and prioritize moral considerations in their decision-making by stressing the value of ethical intelligence. Promoting ethical intelligence can be helpful in creating an environment of integrity and accountability in South Sudan, a country that faces numerous challenges related to development, conflict, and governance. Through ethical reflection, actively seeking to understand the ethical implications of their actions, and upholding ethical values in their decision-making processes, individuals and organizations can improve their ethical intelligence. As it tackles the nation's complex ethical issues, this principle acts as a litmus test for intelligent ethics by promoting lifelong learning, critical thinking, and ethical reasoning. In the end, developing ethical intelligence can support moral behavior advancement and the development of a more equitable and sustainable society in South Sudan.

3.4 The principle of the last resort

In fragile environments such as South Sudan, the "principle of the last resort" refers to the idea that actions that are essential, proportionate, and humanitarian should only be considered after all less invasive options have been explored. As a last resort, especially in unstable or conflict-affected areas like South Sudan, this concept highlights the significance of carefully assessing and carrying out intelligence operations in the framework of intelligence ethics. The other issue of concept in the promotion of ethical intelligence is the last resort. This is a means of trying to get intelligence information without any harm to individual persons. This principle states that, harm should only be inflicted if there is no other alternative of getting the intended information from the person expected to possess the information believed to be a threat to national security of the state. In arguing for last resort as ethical principle in intelligence, Miller Richard believed that, even if the use of force is morally justifiable sometimes in the process of intelligence gathering; the principle of just cause should be achieved by non-violence.²⁹ Furthermore, Philips Robert gave warning by saying that, it is wrong to believe last resort as a designated chronological action of events.³⁰ In qualifying this logic of last resort in relations to ethical principle of intelligence, those involved in the intelligence collection and gathering should make sure they have exhausted all the available means of getting information and no choice is left but the use of other means that may lead to harm. This lack of choice qualifies the application of the principle of last resort in the intelligence gathering and when such scenario happens, it is believed by ethics experts to be morally justifiable. When conducting intelligence operations in unstable environments like South Sudan, where political unrest, violence, and violations of human rights are common, care must be taken to minimize the possible effects on the local populace. With an emphasis on reducing harm and preserving human rights, the last resort principle helps guarantee that intelligence activities are morally and ethically legitimate. Before taking any action that could have a detrimental impact on a person or a community, intelligence operatives must exhaust all available choices. In unstable environments such as South Sudan, intelligence ethics necessitates managing intricate dilemmas, such as striking a balance between the necessity of obtaining information and safeguarding privacy, security, and human rights. When making ethical decisions, intelligence operatives can evaluate the necessity and propriety of their actions in delicate and explosive situations by adhering to the principle of the last resort. In unstable situations, intelligence operations can better accord with ethical principles

²⁶ Thomson, J (1986), Pp.101-102

²⁷ Lackey, D.P. (1989), p.32

²⁸ Stone, R (2005), p.171

²⁹ Miller, R. (1991), p.14

³⁰ Philips, R. (1984), p.14

and support stability, security, and respect for human rights by giving priority to non-coercive, non-violent, and least destructive ways.

4. Conclusion :

In conclusion, this essay has shown the problem of how intelligence institutions conduct intelligence task ethically. Intelligence is a vital aspect of protecting and promoting state's interest both internally and externally, thus; this paper had provided the dilemmas of state in accomplishing such tasks by causing harm to her citizens and the concept of just intelligence derived from the just war theory fits well in avoiding these dilemmas. The link between ethics and intelligence was made clear by Quinlan when he says that, in the course of tension, morality cannot be set aside because we should identify a conceptual structure for disciplining and legitimizing intelligence activity.³¹ It should be noted that, intelligence involve myriads of activities and tasks which make the observation of moral principle cumbersome. The harm conceptual framework presented in this paper provides a way for comprehending how various intelligence activities can be understood in relation to each other especially how intelligence affect individuals. It is possible to align these various activities with intelligence ethical framework that handle harm caused ethically with political institution and the society. Intelligence ethics emphasize a set of moral measures that ensures the justification of harm when the threat is beyond the state management especially when applying self defence. I would like to acknowledge that, despite the fact that, intelligence adheres to ethical principles; there are some circumstances when intelligence becomes inconsistent in gathering intelligence data. For instance; in the application of the principle of legitimate authority in property search and wiretap, there is no proper oversight in the process of performing such task. Moreover, when intelligence institutions deals with individuals suspected to be a threat to state security and interest, there is no appropriate procedure on how the targeted individual can be handled without causing harm to others. Lastly, I would like to agree with some scholars who have clearly stated in this paper before that intelligence can cause harm to individual in the process of getting information that protect state's security and interest but this harm is vital for the protection of the citizen which makes the ethical principle of right authority, intention and the last resort appropriate in such situations.

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³¹ Quinlan, M (2007), p.12

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