

Are we Iraq?

Perhaps we have spent so much time cogitating, thinking about and fighting in Iraq that we have become Iraq.

Imagine this story buried somewhere in the back pages of our local newspapers: "Opinion Article In Iraqi Newspaper Leads to Jail for Opposition Reporters." Sound like an article from some third world newspaper? Wrong! It could be a headline in any American newspaper about our own government.

Joseph C. Wilson, IV, in July 2003, wrote an opinion piece in a major American newspaper. Wilson was a former diplomat who criticized a statement made by President Bush in a State of the Union Address. Wilson expressed his opinion concerning the fact that the President was wrong when the President said that Iraq tried to buy nuclear weapons materials in Africa.

After the opinion piece by Wilson, Robert Novak, a close friend of the administration and a syndicated columnist, stated that "two senior" administration officials told him that Mr. Wilson's wife, Valerie Palme, was "an agency operative on weapons of mass destruction." In fact, Ms. Palme was a CIA undercover operative and the release of the identity of a person serving in that position is a crime.

The Justice Department appointed a special prosecutor to look into the matter, but interestingly, instead of going after Mr. Novak, the special prosecutor has gone after the two reporters who also received the information about Wilson's wife but chose not to publish it! After Mr. Novak published the information concerning Wilson's wife, the other reporters questioned the administration's motive for disclosing Ms. Palme's identity. That may have been their undoing.

The two reporters who work for a magazine and newspaper not felt to be friendly to the administration had been brought before the grand jury. The reporters will go to jail if they do not reveal who gave them the information about Palme, the same information received by Novak.

Why is the special prosecutor appointed by the current administration going after reporters for newspapers and magazines that do not tow the administration line while letting a friend, Robert Novak, go free? We, of course, do not know the answer, but it is difficult to overlook the politics. One of the writers threatened with jail is a reporter for the *New York Times* and the other is a reporter for *Time Magazine*, neither of which publication is well-liked by administration officials.

Recently, the United States Court of Appeals for the District of Columbia upheld the possibility of the two reporters being jailed for as long as 18 months for refusing to reveal the source of their unpublished information. The reporters would be released if they agreed to testify. This is called contempt where the contemnor "holds the key to

the courthouse." Many have written that contempt power is the last bastion of tyranny known to the western legal system. Others say contempt is just another tool to make sure that law enforcement can operate effectively.

The case may go to the United States Supreme Court, but the ruling now stands that the First Amendment does not protect a newsman's agreement to conceal the alleged criminal conduct of his source or evidence thereof, on the theory that it is better to write about a crime than do something about it. One of the judges on the three judge panel wrote that the case "involved a clash between two truth-seeking institutions: the grand jury and the press." According to the judge, disclosure of Ms. Palme's identity harmed national security while contributing little to the national debate.

Of great concern is that subpoenas seeking reporters' sources are increasing. Many reporters have gone to jail for refusing to name sources. Zealous prosecutors, often looking to their political future, seek phone records and other information from reporters who have reported on matters as diverse as Islamic charities.

Another scary aspect of these cases is that prosecutors often submit secret evidence to the courts that neither reporters nor their lawyers are allowed to see. Published opinions by judges even include blank pages along with the notate that they have been "redacted." Imagine going to jail in the United States "for a story I didn't write, for reasons the court won't explain" and for reasons that would not be acceptable in any other nation whom we support with our blood and money.

Interestingly, one of the reporters who may go to jail for receiving information that she did not utilize, won the 2001 Pulitzer Prize reporting on Al Qaeda. Much of her work was focused on national security and government security. The same reporter wrote about United Nations Oil-For-Food Program. Another reporter who may go to jail has a side career doing stand-up comedy, including impersonations of politicians which did not make the politicians happy.

What is going on in this country? Unfortunately, what is going on is that we are at war between "big" and "little." In that scenario, big is always going to win. The problem for the average citizen transcends politics, the war on terrorism and the liberal/conservative dichotomy. In the clash between powerful entrenched political interests and the individual, it appears as though individual rights are fast slipping away. When the press can be targeted and reporters imprisoned for reasons unknown to the public, our entire society is in grave danger.

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