Who Defines the National Interest? How Can This Concept Be Prevented from Being Abused?

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Abstract

The national interest is not a concept that any single actor may define at will. It concerns long-term security, public welfare, and institutional credibility, and it cannot simply be equated with a government's short-term preferences or an official's personal interests. The key to preventing abuse of the concept is not to deny that secrecy is sometimes necessary, but to build a process for forming it that can be explained, reviewed, and corrected: who has the authority to propose objectives, who deliberates over budgets, who bears the costs, and who reviews the results. This article first sets out that legal and conceptual framework, then proposes a testable four-step standard, then uses United States v. Reynolds (1953) as a verified case to show how "national security" secrecy was used to conceal government negligence — and how it was exposed after declassification — and finally discusses how to verify whether a country's system for defining the national interest actually works.

I. The Legal and Conceptual Framework: How the National Interest Is Formed, and Democratic Accountability

The national interest is ordinarily formed into policy by the executive, the legislature, and other legally constituted bodies, each acting within its own authority. The executive holds the power to conduct foreign affairs and security matters; the legislature holds the power of the purse and of oversight; the judiciary reviews the legality of government action in individual cases. This separation of powers is itself the first constraint on the question of "who defines the national interest": no single institution can monopolize the power of definition.

Democratic accountability requires that the basis, the impact on rights, and the review procedure be stated. When a government invokes the national interest, it should explain what objective it is pursuing, how the means it has chosen relate to that objective, and what effect the decision has on citizens' rights. Classified matters likewise require independent oversight by a competent authority: secrecy itself can be legitimate, but the decision to keep something secret cannot be made unilaterally by the party being overseen and left without review.

Three concepts that are easily confused must be distinguished. First, the national interest, which concerns long-term security, public welfare, and institutional credibility. Second, a government's short-term preferences, such as the policy agenda or electoral considerations of a particular administration. Third, an official's personal interests, such as covering up negligence or protecting a department's reputation. Dressing up the second or third kind of interest as the first is the most common way the concept of "national interest" is abused. Whether a claim truly belongs to the national interest cannot be judged by the words the claimant uses; it must be judged by whether the claim can withstand public explanation, independent review, and subsequent correction.

II. A Testable Standard: Who Defines, Who Deliberates, Who Bears the Cost, Who Reviews

Imagine a government preparing to build a large energy project. Supporters emphasize electricity supply and jobs; opponents worry about displacement, the environment, and debt. Both sides may offer public-interest arguments; what is needed is a comparison of the options, not a judgment of who is more "patriotic" based on position alone. This scenario is an analytical hypothesis, not a real case. It illustrates a basic point: judging the national interest cannot be reduced to taking sides; it must be carried out as a testable procedure.

Whether a national-interest claim is legitimate can be tested in four steps. First, who has the authority to propose the objective: is the proposer acting within their lawful authority? Second, who deliberates over the budget: have the funding arrangements passed independent deliberation, rather than being decided by the claimant themselves? Third, who bears the cost: who pays the price, and do the affected groups have channels to speak and seek redress? Fourth, who reviews the results: is there afterwards an independent body able to review the decision-making process and its actual effects, and to require correction?

The same test applies to secrecy. National security and diplomatic negotiations genuinely require secrecy, but secrecy should have a defined scope, a time limit, an authorization, and a review. The scope of secrecy should be limited to information that truly needs protection; its duration should have an end, not be indefinite; its authorization should come from a competent official after genuine consideration; and the decision to keep something secret should be subject to independent review, not decided unilaterally by the party claiming secrecy. If a secrecy decision lacks constraints at all four stages, it ceases to be a means of protecting the national interest and becomes a tool for concealing mistakes or conflicts of interest.

III. A Verified Case: United States v. Reynolds (1953) and the Truth After Declassification

On October 6, 1948, a U.S. Air Force B-29 bomber took off from Robins Air Force Base in Georgia for a round-trip test flight to Orlando to test secret navigation equipment. The aircraft crashed near Waycross, Georgia, with 13 people aboard (9 crew members and 4 civilian observers); 9 were killed (6 crew members and 3 civilian engineers of the Radio Corporation of America (RCA)), and 4 survived.[1][2]

The widows of the three engineers sued the U.S. government under the Federal Tort Claims Act, seeking compensation, and in the course of the litigation demanded that the Air Force produce the accident investigation report. The Air Force refused, on the grounds that the report concerned state secrets and that disclosure would reveal the nature of the bomber's secret mission. The Secretary of the Air Force formally asserted the privilege. The district court ruled in the plaintiffs' favor because the government refused to produce the documents, and the Third Circuit Court of Appeals affirmed that judgment.[1][3]

On March 9, 1953, the U.S. Supreme Court ruled 6–3, reversing the lower courts and affirming the government's "state secrets privilege." The Court held that, so long as the government formally asserted the privilege and there was a reasonable danger that disclosure would reveal military secrets, the court should accept the claim without itself examining the documents. The Court also noted that the flight was indeed testing secret electronic equipment, so the government's privilege claim was reasonable; and that

the plaintiffs could pursue negligence liability through other channels and did not need the accident report itself. The Supreme Court did not examine the accident report itself. The parties subsequently reached a settlement, under which the three widows received a total of $170,000 in compensation.[1][2][3]

That seemed to be the end of the case. But decades later came a startling development. The accident report was declassified between 1995 and 1996, and in 2000 it was found on the Internet by Judith Palya Loether, the daughter of one of the engineers killed in the crash. She requested a copy and discovered that the report contained no military secrets at all. On the contrary, the report contained extensive evidence of government negligence: the crash was most likely caused by an engine fire; the protective shrouds used to prevent engine overheating had not been installed, in violation of Air Force directives; and the report concluded that "the aircraft was not considered airworthy."[2][3]

The widows' families then petitioned the courts for a writ of coram nobis to reopen the case, alleging that the executive branch had deceived the judiciary with a false national-security claim. They lost in the district court and in the Third Circuit Court of Appeals, and the Supreme Court declined to hear the case.[2][3]

The significance of this case is that it shows, in the most direct way possible, how the concept of "national interest" can be abused. The government invoked national security to refuse to produce an accident report; the court accepted the claim without examining the report; and nearly half a century later, declassification proved that the report contained no secrets at all — only evidence of negligence that the government did not wish to disclose. The crux of the problem is not whether secrecy itself was legitimate, but that the decision to keep something secret was never independently reviewed: the party claiming secrecy was also the party deciding whether secrecy was justified, and the court gave up its power to examine the documents. Had an independent in camera review procedure existed at the time, the evidence of negligence in the report could have been handled without disclosing any secret, and the widows would not have had to wait half a century to learn the truth.

By way of contrast, the 1971 Pentagon Papers case (New York Times Co. v. United States) shows another possibility: the government asked the court, on national-security grounds, to bar newspapers from publishing classified documents on the Vietnam War, and the Supreme Court refused the prior restraint, holding that the government had failed to prove that publication would cause direct, immediate, and irreparable harm.[4] The two cases together show that courts do not inevitably accept national-security claims; when the government cannot meet its burden of proof, a secrecy claim can be rejected. The problem in Reynolds was not that the court reviewed the secrecy claim, but that it did not review it.

IV. The Strongest Counterargument — and a Reply

Those who support broader secrecy powers argue that national security and diplomatic negotiations genuinely require secrecy. Once certain information is disclosed, it may indeed damage intelligence sources, military capabilities, or a negotiating position. Requiring every secrecy decision to undergo public review could, in practice, weaken the government's ability to protect the country. This concern is real and should not be lightly dismissed.

But acknowledging that secrecy is necessary is not the same as accepting unchecked secrecy. The key to the reply is to distinguish the content of secrecy from the procedure of secrecy. The content of secrecy may involve genuine secrets, but the procedure of secrecy must include limits on scope, set time limits, recorded authorizations, and independent review. The Reynolds case proves precisely what happens when procedural constraints are absent: the government used the genuine background of a "secret mission" to conceal a report that had nothing to do with secrets and everything to do with negligence. Had an independent in camera review existed at the time, a judge could have confirmed, without disclosing the report, that it contained no secrets — thereby protecting genuine secrets while preventing the abuse of the secrecy power. Procedural constraints are not a weakening of national security; they are a protection of the concept of the national interest itself: they ensure that the words "national interest" cannot be used to endorse any government action whatsoever.

V. How to Verify Whether the System Works

Verifying whether a country's system for defining the national interest works cannot be done by looking only at whether its laws contain the words "national interest" or "national security"; what matters is how five elements actually operate.

First, whether policy objectives, costs and benefits, affected groups, alternatives, conflicts of interest, and channels for redress are made public. When a government invokes the national interest, does it explain the objective it pursues, the connection between the means chosen and that objective, and the effect of the decision on citizens' rights?

Second, whether secrecy decisions are subject to independent review. Must the party claiming secrecy explain its reasons to an independent judicial or legislative body, and does the reviewer have the power to examine the relevant materials in camera?

Third, whether secrecy has time limits and declassification arrangements. Do secrets enter declassification assessment automatically after a certain period, rather than remaining secret indefinitely; and after declassification, can those affected seek redress?

Fourth, whether wrongly invoking secrecy carries consequences. If a secrecy claim later proves unfounded, does the claimant face accountability, and can the injured party obtain a remedy? In the Reynolds case, the families' attempt to reopen the case after declassification failed — a result that itself demonstrates the inadequacy of the channels for redress.

Fifth, whether independent observation and public debate are permitted. Can journalists, scholars, and civil society question how the national interest is defined, and can the legislature conduct substantive debate on secrecy policy? Looking only at whether the law authorizes secrecy is not enough; what must be examined is how the four stages of application, enforcement, observation, and redress actually operate.

Conclusion

The national interest needs a process of formation that can be explained, reviewed, and corrected. Who has the authority to propose objectives, who deliberates over budgets, who bears the costs, and who reviews the results — none of these four questions can be omitted. Secrecy is reasonable under certain conditions, but the decision to keep something secret cannot be made unilaterally by the party being overseen and left without review. The lesson of the Reynolds case is this: when the court gives up its power to examine the documents, when secrecy has no time limit and no review, and when the truth revealed by declassification cannot obtain redress, "the national interest" changes from a concept that must be argued for into a blank check that can conceal any error. The way to prevent abuse is not to abolish secrecy, but to subject every invocation of the national interest to explanation, review, and correction.

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