

# Lies and Consequences

BY WENDY KAMINER

“THERE ARE LOTS OF DIFFERENT SITUATIONS when the government has legitimate reasons to give out false information,” Solicitor General Theodore Olson told the U.S. Supreme Court in March. He was defending the government’s right to lie in *Harbury v. Christopher*, Jennifer Harbury’s lawsuit against former Secretary of State Warren Christopher and other high-ranking Clinton appointees. Harbury alleges that the Clinton administration lied to her about the detention and torture of her late husband, who was captured by the Guatemalan military in 1992 and eventually killed—while she pleaded for assistance in finding him. According to Harbury, government officials told her they had no information about her husband when, in fact, they knew he was in the custody of Guatemalans working with the CIA.

The truth of her claim that the government lied is not at issue before the Supreme Court. Rather, it must simply decide if she has a right to sue officialdom for purposefully deceiving her in order to prevent her from taking legal action. This may seem like an easy case to those who believe that no one is above the law. People who imagine that their government is on their side may wonder why it should be endowed with the unchecked power to deceive them—a power that may be exercised without any judicial review. But Harbury, a lawyer who argued her own case before the Supreme Court (to the apparent discomfort of justices unaccustomed to confronting the people whom their decisions most affect), is likely to lose her bid to sue the government. You may think this is a case about lying, but the court is apt to regard it as a case about foreign policy, with which it’s loath to interfere.

Are foreign policy and truth compatible? Some presidents have had their doubts. The Bush administration recently announced a plan to distribute misinformation to foreign media through the Pentagon’s proposed Office of Strategic Influence. In February the administration quickly retreated; the propaganda office was aborted when its intentions were publicized and its potential effectiveness destroyed. Still, the president claimed to be acting on principle, not pragmatism. He professed firm disapproval of the lying initiative, saying, “We’ll tell the American people the truth” shortly before his solicitor general defended the administration’s right to tell the American people lies.

Is lying ever justified? Bill Clinton clearly felt justified in lying to lawyers investigating his sex life. If they had no moral right to ask the questions, you imagine him reasoning, he had no moral obligation to answer them honestly. Richard Nixon retained tape-recorded evidence of his own lies about the Watergate break-in and other scandals, so secure was he in the presidential power to dissemble. George W. Bush has

only been caught uttering relatively small lies so far: asserting during the campaign that he had championed a patients’ bill of rights in Texas when he had, in fact, opposed it, and claiming more recently that he inherited his association with former Enron chief Kenneth Lay from his predecessor in the Texas governor’s office, Ann Richards. The extraordinary secrecy of the Bush administration obviates some of its need to lie but, like the Catholic Church, it may someday be held accountable for the moral corruption that secrecy spawns.

Meanwhile, alleged moral exemplars, from presidents to popes, along with lesser beings (the rest of us) tell lies in the belief that they serve a greater good. Lies are often imbued with transcendent instrumental value by the individuals and institutions that utter them. Sometimes the lies are self-serving, of course, but the tendency—or temptation—to lie in service of justice makes it virtually impossible to condemn all lying categorically.

When the gestapo bangs on your door, you had better lie about the Jew you’re hiding in the basement. The moral choice, however, is not always so clear: Do you have a right to lie to governments or other interrogators whenever you believe they are acting unjustly? If you consider the tax code oppressive, are you justified in lying to the IRS? If you oppose the death penalty (as I do) because you consider it immoral, should you lie if you’re called to serve on a jury in a capital case? Should you tell the court that you have no quarrel with capital punishment in the hope of qualifying as a juror and thwarting an execution?

I’m afraid I’d tell the truth, partly in the belief that truth is easier to discern than justice and partly because I imagine that, if everyone always told the truth in court, we’d end up with more justice, not less. But I might be wrong; my truth telling might be immoral.

Still, truth often seems the safer choice, though it’s bound to be the wrong choice on occasion. At least it saves us from the self-deception to which many liars are prone. To rationalize their lies, people—and the governments, churches, or terrorist cells they compose—are apt to regard their private interests and desires as just. Clinton may have lied to preserve his power while telling himself that he was lying to protect “the people” who benefited from his presidency. Liars—especially liars in power—often conflate their interest with the public interest. (“What’s good for General Motors is good for the United States.”) Or they consider their lies sanctified by the essential goodness they presume to embody, like terrorists who believe that murder is sanctified by the godliness of their aspirations. Sanctimony probably engenders at least as much lying as cynicism. We can’t condemn lying categorically, but we should categorically suspect it. ♦

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