

❖ Can we handle the truth? Whistleblowing to the media in the digital era

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Introduction

"You can't handle the truth!"

So goes one of the most famous film lines in the past two decades. In *A Few Good Men*, Jack Nicholson plays a morally compromised US Colonel from the US military base at Guantanamo Bay. He is trying to cover up a murder. In the final dramatic courtroom scene, Nicholson lashes out at his cross-examiner, barking "You can't handle the truth!" Then the Colonel sneers, "You have the luxury of not knowing what I know."

Many of the arguments swirling around the online media phenomena that is WikiLeaks, can be aptly summarised by those lines spoken by writer Aaron Sorkin's expertly crafted film character. The arguments are primarily based around the idea that governments should be entitled to a high degree of secrecy because the general population "can't handle the truth." The premise that underpins this is that the public can't handle the responsibility of being told the truth.

The justification "national security" is rolled out time and time again like a worn, moth-eaten rug. Yet, this justification is rarely explained to the public in any drilled-down detail. The decision-making pattern is repeated. A senior bureaucrat says "national security" and politicians soon oblige the request; be it for increased budget or expanded government powers at the expense of individual freedoms. Parliamentarians and members of Congress alike are frightened that if they interrogate these requests in any rigorous fashion they will be labelled as either 'weak' or 'unpatriotic.'

It is an ironic state of affairs, since few things could be more patriotic than an elected official defending the individual freedoms of the citizenry. After all, that is why the security and defence apparatus exists in a western democracy in the first place. A citizenry armed with full information is far more powerful – and far less passive. Founders of government, such as the drafters of the US Constitution and its amendments, indicated by their support of an unfettered press, that they believed an informed democracy is a better one.

As online site's media revelations of the past few years illustrate, there is in fact a great deal of information that governments hold as being 'secret' which may not need to be. This essay explores arguments around removing some of the secrecy, as illustrated by the WikiLeaks case. It also looks at four specific impacts of WikiLeaks, and what these changes mean for the future in a democratic society.

Is there a role for secrecy in government?

There is a role for secrecy in society, and in government. We want to be able to have secret conversations in our everyday lives, with best friends and work colleagues alike. Secrecy, the withholding of key information, might at times be a necessity in diplomacy to promote open discussions and frank negotiations.

Secrecy is also rightly used in some cases to protect sources, who might otherwise find themselves in peril, in promoting social good. An example of this might be human rights advocates working on developing civil society programs in corrupt or undemocratic regimes. But problems arise when this secrecy is taken at the expense of a democratic government's twin primary obligations – to look after its own citizens, and to be full and frank with its people. The level of secrecy that is being practiced by western governments and corporations alike is too great for the societies that they govern.

Governments in particular, have a greater obligation to transparency, in part because they have a greater temptation to secrecy. Secrecy combined with the power of the state creates potential for the serious abuse of power. Citizens should be entitled to a higher level of privacy, while governments, as the agents of the people, should practice a higher level of transparency. The premise in our modern democracies should simply be this: nothing in government should be kept secret from the citizenry unless there is a real reason for doing so.

That premise of limiting secrecy has been opposed by the powerful in government for some time. John Cain, former Premier of

the State of Victoria, was a driving force in bringing in Freedom of Information (FoI) legislation 30 years ago, a key milestone in the history of opening up government. In a recent public speech, Cain described how, when his government's FoI Bill was first made public, he was stopped in the street by the senior Supreme Court judge of Victoria (Cain 2011). FoI was "a big mistake" the judge told the Premier. The judge said the parliamentary process and Westminster system already provided all the avenues that were needed for citizens to learn about their government. Many held this view, and there was pressure on ministers and advisors to block the proposed FOI legislation. Cain said:

FoI cuts across the way bureaucrats think and want to act. They see themselves as being the repositories of information that government needs to function properly. It should only be revealed in a need-to-know basis. And, in their minds, there are very few people who need to know (Cain 2011).

Democracies sit on a spectrum between openness and transparency at one end, and government secrecy at the other end. We slide from one point to another on this spectrum over time. We are pushed by external events such as the War on Terror, Watergate or the Cold War, and by legislation, both progressive and repressive. At this point in time we have found ourselves at an extreme end of that spectrum – and we are continuing to slide further away from a balanced mid-point. Few things show this in such stark relief as WikiLeaks.

WikiLeaks' publications: risks and impacts

Investigative journalism sometimes raises questions around *risk* versus *reward* in publishing leaked material. Journalists must ask themselves, "Will this information cause innocent people to be hurt?" Equally they must ask, "Is this information in the public interest?" These are not necessarily zero-sum trade-offs, but they can be. In this context, public interest is defined as "having appeal or relevance to general populace" (Dictionary.com. 2001).

To date, the US Defence Department does not appear to have reported any informants or others who have been hurt or killed as a result of the WikiLeaks releases (Dorling 2011). Former US Defence Secretary Robert Gates did state in a private letter to the chairman of the Senate Armed Services Committee, Senator Carl Levin, in 2010 that the WikiLeaks release of 75,000 classified documents about the war in Afghanistan endangered the lives of Afghans helping the US (Mackey 2011). However, no evidence was presented about any actual events. Given the US government's antipathy toward the publisher, it is likely that any such event would have been announced in a very public manner. WikiLeaks has also stated that it has found no evidence that any of its publications have resulted in innocent people being hurt or killed.

On the question of national security, the criticism of WikiLeaks does not appear to have matched the reality of the impact of the information releases. For example, in the same private letter penned by Gates, the Secretary wrote that a review had "not revealed any sensitive intelligence sources and methods compromised by this disclosure" (Mackey 2011). However, it is interesting to note that just a fortnight earlier, Mr Gates appeared to contradict what he wrote in the private letter when he told a Pentagon news conference that the released information was damaging because "intelligence sources and methods" in the war logs "will become known to our adversaries" (Mackey 2011). Further, at that same briefing, the Chairman of the Joint Chiefs of Staff, Admiral Mike Mullen said that Mr Assange and his source might have "the blood of some young soldier" on their hands (Mackey 2011). It appears that over a period of months, the Pentagon backed away from its initial emotive criticism to a more measured response.

Similarly on the matter of the release of a quarter of a million US State Department diplomatic cables, the White House stated that the release of the cables was a "reckless and dangerous action" (Office of the Press Secretary 2010). If the cables were released in full, the White House said it could "put the work and even lives of confidential sources of American diplomats at risk," according to *The New York Times* in November 2010 (Shane & Lehren 2010). However, by mid-January 2011, the same paper's online blog reported that State Department officials had concluded that the publishing of the US diplomatic cables "was embarrassing but not damaging" (Mackey 2011).

On September 2, 2011 (AEST), WikiLeaks' released the entire tranche of 251,287 diplomatic cables in unredacted form. There was substantial criticism by the world's media (Satter 2011). Commentators expressed concern as to whether confidential informants in countries with repressive governments might be put at risk.

It should be noted that the public was able to obtain the entire unredacted collection of cables elsewhere on the Internet before WikiLeaks' actual publication. This was the result of a cascade of events broadly, and individual's actions specifically. These were detailed by the German magazine *De Spiegel* in a complicated timeline (Stocker 2011), and later in *The Age* (Dorling 2011). On September 2, WikiLeaks effectively published the material in an easier to access format, but this publication came after the horse had well and truly bolted. The entire tranche of material was already out "in the wild" – available and free to download across numerous sites, as was the passphrase to unlock the material from its encrypted state.

This sequence of events was not well publicised in the traditional media, which led to the inaccurate perception that WikiLeaks had released the unredacted tranche of cables first on its own on September 2. While newspaper readers and TV watchers may have been under this illusion, social media users, particularly those using Twitter, were not. Twitter was a frenzied storm of citizen journalists scooping up the entire tranche of cables well before WikiLeaks finally published them.

It is unlikely that WikiLeaks intended for this complete set of unredacted cables to be made public in the short to medium term. It had possessed the entire tranche since at least November 2010, when it began to publish from the set. The slow releases were conducted in a planned and redacted manner in partnership with established media organisations. If WikiLeaks' intent had been to dump the entire unredacted set of cables into the public realm, it could have done so at any time in the nine or more months before September 2011, but it did not.

Time will tell if harm has come from WikiLeaks's September release. However, what is clear today is that a great deal of information in the public interest has been revealed. This includes for example information about a reported massacre of children in Iraq in 2006 by US troops as part of the Multinational Forces (Rainey 2011). A cable quotes from a letter about this written by Australian Philip Alston, the UN's Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions and brother to Howard Government minister Richard Alston.

The UN investigator wrote requesting a response regarding evidence that US troops executed at least ten civilians, including five women and four children, in a farm house in Ishaqi in an early morning raid (Schofield 2011). The cable includes extracts of the letter that describes how each of the victims was handcuffed before being shot in the head or chest. The victims included a 74-year old grandmother, two five year old children, two three year olds, and a five month old baby. The US bombed the house in an airstrike later that day. Autopsies at the Tikrit morgue confirmed that all had been handcuffed and shot (Schofield 2011).

The US told the media it had investigated the events and that there had been "no wrongdoing" (Rainey 2011). The US government had refused to respond to the UN Special Rapporteur's request for information up to 2010, the most recent data Alston had. Alston said this was the case "with most of the letters to the U.S. in the 2006-2007 period," a peak period of fighting (Schofield 2011).

The astonishing nature of this cable clearly points to a matter of grave public interest. It reveals an unsolved crime of dramatic proportions that requires a transparent investigation. Yet, there had been no such investigation held, and questions put to the American Government about the massacre remained unanswered. While the full facts may not yet be available, this is a clear example of an incident that demands a public airing but would have been swept under the carpet, but for WikiLeaks.

Leaks publishing – the possibilities

The focus of official press office statements has very much been around how leak publishers might cause danger to the public, but they do not address how the reverse may be possible. For example, frustrated criminal investigators who were aware of some clear and present danger to the public might be able to use a leaks publisher as a quick avenue to divert disaster.

In an op-ed article in the *Los Angeles Times*, two such investigators described their frustration with not being able get their "ossified bureaucracies" to act quickly based on real threats (Rowley & Dzakovic 2010). They pondered whether the events of September 11, 2001 could have been prevented if WikiLeaks had existed at the time. One of these authors was Coleen Rowley, the FBI special agent and legal counsel who worked closely with those who arrested one of the September 11 would-be terrorists less than a month before the World Trade Centre was attacked. The other was Bogdan Dzakovic, a Federal Air Marshal whose team repeatedly found vulnerabilities in airport security – only to have their warnings ignored. Rowley and Dzakovic wrote, "WikiLeaks might have provided a pressure valve for those agents who were terribly worried about what might happen and frustrated by their superiors' seeming indifference."

As demonstrated by the many thousands of news stories around the world, much of the vast collection of information made public by WikiLeaks has been newsworthy. A simple search of the words "WikiLeaks stories" on Google turned up more than 15 million results (Google 2011). Mainstream media, such the London-based *Telegraph* newspaper ran headlines entitled "WikiLeaks' 10 greatest stories" (Chivers 2010). Online media took that a step further with stories such as "5 Jaw-Dropping Stories in WikiLeaks Archives Begging for National Attention" (Turse 2010). These stories include leaked original counterinsurgency manuals (COIN), some of which are essentially handbooks for commanders and staff in places like Afghanistan. At least one of the handbooks is "incredibly unsophisticated" and so explains "a great deal about why and how the US finds itself nearly a decade into a war ... without ... fervent popular support" (Turse 2010). If the citizenry are asked to pay for and support an ongoing war, it is important that such information be in the public sphere for informed decision-making.

The newsworthiness of the WikiLeaks' stories is evidence in other ways. For example, nearly half of *The New York Times'* editions between January 1 and April 25, 2011, relied on WikiLeaks, according to an analysis published in *The Atlantic* (Dickson 2011). This does not count editions with articles that mentioned WikiLeaks. It only counts articles that drew from WikiLeaks' material as "a reporting source."

The public interest in and support for leaks publishers points to the need for an overhaul in governments, both in the threshold level of what should be secret and in the process of releasing information from being secret. Without a dramatic revision in the process, the temptation of those bureaucrats John Cain described to revert to information-hiding will be too great over time to sustain any change.

WikiLeaks and The Pentagon Papers

The White House and the Pentagon condemned WikiLeaks across the world's television screens each time the publisher announced that it planned to reveal a new cache of secret American documents. First, there was the 77,000 Afghan War Logs, followed twelve weeks later by the 391,832 Iraq War Logs and then the 251,287 US diplomatic cables. The indignation of the Pentagon and the White House at the media for the publication of embarrassing information is not new. This year marks the 40th anniversary of *The New York Times'* publication of the Pentagon Papers.

In this landmark whistleblowing event, *The Times* reported in June 1971 on the contents of a secret Department of Defence study of Vietnam. The leaked report revealed that the Johnson Administration had systematically lied to Congress and the people about the Vietnam War (Apple 1996). Over a period of time, Daniel Ellsberg and Anthony Russo began photocopying some 7,000 pages of the report at night in order to leak the material. Ellsberg said he had made the decision to become a whistleblower "to get us out" of "a wrongful war" (Goodman 2007).

The US government tried to suppress the publication of the Pentagon Papers. Holding true to the free speech ideals of both the American Constitution and the American psyche, the US Supreme Court refused the White House's attempt to stop all publication of the Pentagon Papers. Justice Black's ruling in particular is among the most famous of all free speech legal rulings in judicial history. He wrote:

The press was to serve the governed, not the governors. The Government's power to censor the press was abolished so that the press would remain forever free to censure the Government. The press was protected so that it could bare the secrets of government and inform the people. Only a free and unrestrained press can effectively expose deception in government. And paramount among the responsibilities of a free press is the duty to prevent any part of the government from deceiving the people and sending them off to distant lands to die of foreign fevers and foreign shot and shell (The New York Times 1971).

Comparisons have been made between the large-scale releases of WikiLeaks in late 2010 and the publication of the Pentagon Papers nearly 40 years earlier, with good reason. What is interesting is that nothing in those intervening 40 years is of the same magnitude such that it would be such a point of popular comparison.

How WikiLeaks has changed the media

WikiLeaks has changed the media in a number of ways:

- It has challenged the traditional media, and in doing so has encouraged them to be braver. After a decade of sleepwalking, the mainstream media finally seems to be waking. WikiLeaks has reinvigorated journalists – in its competitors as well as its media partners – to be less 'embedded' and more willing to ask the hard questions again. This is crucial because a free media is the watchdog of a free society.
- It has revolutionised the traditional media, particularly newspapers, by collaborating with them in new and creative ways. It has shown them a new model of how the media can work cooperatively for better reporting in the public interest.
- It has promoted the spread of data journalism, the "aggregating, filtering, and visualising large sets of data, based on statistical methods of data analysis" (Voß 2011). Working with both media and NGO partners, WikiLeaks illustrated how sophisticated analysis of large data sets can reveal the bigger picture. This is particularly true for the release of the Iraq War Logs and the Afghan War Logs.
- It has enhanced the spread of new media. This is not just new media in the sense of being digital or online media. It is a new type of media – leaks publishers. There are now more than 20 new publishing sites dedicated specifically to leaked data. Some of these are geographically based, such as Balkan Leaks, Indoleaks and ThaiLeaks. Others are topic-based, such as UniLeaks and EnviroLeaks.

The last point is in many ways the most important for understanding the true impact of this brave new world of leaks publishers. Freedom of speech is the most important freedom in our society. It underpins all other freedoms in our free society. It is not possible to censor the media without running the risk of hiding corruption and unethical behaviour by governments and corporations alike. Thus, WikiLeaks has made a particularly important contribution. Not only has the publisher itself engaged in encouraging free speech through its innovative design to allow safe whistleblowing, it has also provided a successful model for replication. In this way, leaks publishers may be evolving from being just publishers to becoming an entire social movement. This may or may not have been the original intent when the concept of WikiLeaks was first imagined in a quirky, rundown student house in Carlton, Victoria, but it has happened just the same.

The idea of leaks publishers as a social movement suggests that despite the best efforts to quash or limit it, we as a society have reached a point of no return. Closing down WikiLeaks would be entirely ineffectual and prosecuting it, as it appears the United States government may be angling to do, is a dangerous risk to our free speech society. Quite simply, there is no way to go back to life before online leaks publishing.

There is one final point of interest. The degree of WikiLeaks' impact on the media is surprising given its youth. The publisher is younger than Twitter, YouTube or Facebook, yet its impact would be on a similar scale. The publisher has been forging a path into unknown territory. This may have resulted in errors along the way, but it has also provided surprising new benefits to society. The youth of leaks publishing suggests that there may still be more changes to come that we cannot envisage yet from this new type of journalism.

Conclusion

Leaks publishing, as illustrated by the case of WikiLeaks, has shown that a reduction in government secret-keeping can be beneficial. Further there are at least four ways that WikiLeaks has contributed to changing the way reporting through the media operates, and these changes are likely to only increase as more leaks publishers pop up.

The desire for governments to keep secrets is intertwined with the issue of the media's right to speak and publish freely. Without these freedoms, the media may have access to secrets leaked in the public interest but not be able to reveal them to the general public. In this sense, the freedom of speech is as much about the ability to speak out as the public's right to know. Knowledge often breeds thought and action, followed by change. Whether by intent or accident, WikiLeaks is a change agent. And, this is perhaps the thing that most disturbs the growing number of large institutions which seek to shut the publisher down. The evidence has shown that the watchdogs and agencies of democracy aren't enough on their own. Online leaks publishers are a necessary addition to the array of checks and balances in a healthy, clear-eyed democracy.

National security can be a legitimate reason to control the distribution and release of information, at least for a period of time,

and there is a place for government secrecy. However, it is important to peel back the layers of the narrative to find the subtext under government secrecy. What the invisible power players in windowless offices often mean when they say "national security" is this: the people cannot have "the truth" because the citizenry might demand to do things with that truth. The people cannot be trusted to "handle the truth" passively.

In this, the intelligence community is quite accurate in its assessment. The past year and a half of WikiLeaks revelations have clearly shown that around the globe, from protests in Spain to Brazil, from popular uprisings and revolutions in Tunisia to Egypt, the civilian population will demand answers and action from governments that make unethical choices in secret. When the media reveals wrongdoing by their governments, people will not stand by passively. This is the reason why online leaks publishing is an important tool to support the functions of robust democracies. One of the most important aspects of a democracy is that the people are given an opportunity to handle the truth.

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