

 **WikiLeaks and mega-plumbing issues – unresolved dilemmas revisited**

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Abstract

The volume of leaked memos published by WikiLeaks in late 2010 was historically unprecedented. It elicited immediate outrage by many governments and calls for the principal of WikiLeaks, Australian citizen Julian Assange, to be prosecuted, or worse. Others however hailed Assange as a hero. While on a massively new scale, the saga raises many of the issues already surrounding the use of unauthorised leaks in the news. Unless one takes one of two polar positions – that all leaks are always justified or that no leaks are ever justified – there are old but unresolved issues about how to draw what lines. This paper traces through the public debate and its hypocrisies, before exploring some of the conflicting principles and reviewing some of the major WikiLeaks revelations. When is national security involved, and when is it inappropriately invoked? What moral and legal issues are raised by the leaks, including appropriate confidentiality and privacy concerns? WikiLeaks has redefined journalistic possibilities, but in regard to what should or should not become public it has simply intensified longstanding dilemmas.

Introduction

Following the long anticipated first publication of the US diplomatic cables on Sunday November 28, 2010, *Crikey* writer Guy Rundle (2010) proclaimed: "The world changed this week. And it's only Monday." This was the biggest leak of official documents in history. The raw material consisted of more than 250,000 cables from 250 US diplomatic stations. *The Guardian* editor, Alan Rusbridger, estimated that altogether it amounted to around 300 million words, and that in contrast, the previous biggest leak, the officially conducted history of the Vietnam War called the Pentagon Papers in 1971, had consisted of two and a half million words (Rusbridger in Leigh & Harding 2011).

The release of the diplomatic cables was the climax of a dramatic year for WikiLeaks. Four episodes in 2010, each based on leaked material allegedly provided by Private Bradley Manning an American soldier working in intelligence in Iraq, commanded global attention. First came the video of Americans in an Apache helicopter killing several innocent people, including two Reuters journalists, in a Baghdad street. Second came the Afghanistan war logs. Third came the Iraq war logs. These consisted of 392,000 documents of US military-communication records (Shaw 2010). Finally, and most spectacularly, came a tranche of documents from the massive cache of US diplomatic cables.

Each set of leaks commanded progressively more global media attention. For the massive task of processing and then publicising the cables WikiLeaks had entered into an alliance – although with tensions and frustrations on both sides - with *The Guardian*, *The New York Times* and *Der Spiegel*. All three publications provided experienced journalists who spent months going through the documents. Towards the end, other elite media organisations were also included (Leigh & Harding 2011; Dorling 2010a).

While the leaks of 2010 were far more spectacular than anything that had gone before, between 2007 and 2009, WikiLeaks achieved several important revelations. It published material about corruption and human rights abuses in Kenya; it exposed revealing documents from the Church of Scientology; it listed the biggest debtors of the collapsed Icelandic Kaupthing Bank; it exposed the tax evasion activities of the Cayman Islands subsidiary of the Swiss bank Julius Baer; it revealed a damning report on toxic waste dumped by the oil traders, Trafigura.

WikiLeaks was very much the creation of Julian Assange, and while the organisation and Assange sprang into global prominence in 2010, the WikiLeaks moment was a long time in the making. Its remote origins lay in the skills, experiences and reputation Assange built up as a hacker in his teens and early adulthood. His computer skills combined with his uncompromising anarchistic idealism, his organisational and logistical capacities, and his ability to enthuse and mobilise others eventually drove WikiLeaks to global prominence. In the second half of 2005, Assange decided on the name WikiLeaks, and

had it registered the following year as he was developing his strategic vision.

Certainly – by the end of 2010 – WikiLeaks had made a bigger impact than anyone, with the possible exception of Assange, could have imagined. Moreover apart from the specific leaks that had come forward, the organisation embodied some changes are likely to be enduring. The leaking of documents electronically offers the potential for leaks on a scale rarely possible before. The contrast between Bradley Manning walking past security each night with his CD with the Lady Gaga label filled with data, and Daniel Ellsberg spending his evenings for weeks on end at a photocopying machine copying each page of the Pentagon Papers (Rudenstine 1996; Tiffen 2011), is stark.

Moreover in Jay Rosen's phrase (Sifry 2011a: 22), WikiLeaks has built a "stateless news organization." Using the internet and its international organisation, WikiLeaks is another step in how globalisation makes censorship of information by national governments increasingly difficult. The most dramatic cases so far were the way it published how the Swiss company Trafigura Beheer BV had dumped toxic waste at the Ivory Coast port of Abidjan and the tax evasion practices of Barclays Bank, despite both companies having obtained British court orders to gag all publication. So in what *The Guardian* journalist John Naughton (2010) called "the first really sustained confrontation between the established order and the culture of the internet", the internet won.

Nevertheless, despite its spectacular successes, it is already clear that key elements in Assange's original vision – his idea of how WikiLeaks would transform journalism – have proved wrong or unworkable or too ambitious.

- "Crowd sourcing" is never going to provide a great supply of leaks.

Crowd sourcing involves making an open call for people to help solve a problem. It has been institutionalised on the internet with the highly successful Wikipedia. But contributing to WikiLeaks will never be like contributing to Wikipedia. The title captures that the organisation would depend on the information provided by others, but the need for secrecy and security to protect sources and authenticate documents meant that it could never be an open, collaborative online endeavour on the Wikipedia model.

Guaranteeing anonymity for leakers, even from WikiLeaks itself, is not guaranteeing the authenticity of the leaked material. As Fowler observed (2011: 53), "WikiLeaks had established a system whereby its sources of information remained anonymous even to Assange. But the major question about whether the document is a fake remains unanswered." In the spectacular leaks of 2010, neither forgery, nor even misleading selectivity, was an issue. But very often they are, and it would be difficult for WikiLeaks to authenticate the material it receives.

The dramatic WikiLeaks disclosures of 2010 depended principally on the actions of Private Bradley Manning, who had become disillusioned with American conduct of the war in Iraq. He was, like Assange, highly skilled in IT, and then used these skills to give WikiLeaks huge amounts of classified information. But Manning was feeling vulnerable and isolated, and made a bad misstep after which he was arrested and has been in an American prison ever since. Because there was no direct relationship, WikiLeaks was not able to give proper emotional support or advice to the leaker who had risked so much.

- Websites are no substitute for mainstream media, especially in terms of public exposure and political impact.

Releasing raw materials is not a substitute for processing them into a digestible, meaningful narrative. What Assange called "scientific journalism" – the direct release of primary documents, which can then be assembled into patterns – has almost no audience appeal. "Assange had by now discovered, to his chagrin, that simply posting long lists of raw and random documents on to a website failed to change the world" (Leigh & Harding 2011: p.61).

- 'Transparency' is not always and invariably a force for good.

Last, but not least, the original Assange conviction that all disclosure is beneficial cannot be sustained. While, in my view, the WikiLeaks revelations have overwhelmingly been helpful to democracy and have told citizens things they had a right to know, the old dilemmas regarding what should be public are, as this paper has tried to show, still unresolved and inevitably contested. It is this last of Assange's key assumptions that is the focus of this paper. It is common for those advocating the virtues of free speech to offer unqualified endorsements of its value.

Assange himself, at least in regard to government and powerful interests, had tended to describe all publicity as being good. According to his collaborator for a period, the famous *The Guardian* investigative reporter, Nick Davies: "The problem is [that Julian is] basically a computer hacker. He comes from a simplistic ideology, or at that stage he did, that all information has to be published; that all information is good" (Leigh & Davies 2011: 112). Assange's attitudes are well captured by the title of his now famous essay, "Conspiracy as governance." He has argued that leaks produce the most fear and paranoia within the most secretive and unjust organisations (Fowler 2011:56; Leigh & Harding 2011: 46), and described the work of WikiLeaks as "enforcing the First Amendment around the world" (Fowler 2011: xiii).

Assange is in the tradition of former US presidents such as Woodrow Wilson, who believed, after World War I, that open covenants openly arrived at would prevent such terrible wars in future. One of the framers of the US Constitution, Thomas Jefferson, believed that liberty depended on the freedom of the press, and that such freedom could not be limited without being lost. Yet, all societies have always put some limits on the rights of free expression, for reasons based not only on political expedience, but also because of other, competing social principles.

In most democracies, policies have been devised to protect and strengthen the democratic flow of information. One such traditional means of enhancing democratic processes is parliamentary privilege, to ensure that elected representatives are not constrained in expressing their views, and that parliamentary proceedings can be widely reported. More recently, many liberal

democracies have introduced freedom of information legislation and other measures for the compulsory disclosure of information – which although often problematic in practice – are intended as a check on the actions of executive government.

So, if like Ralph Nader, one accepts that information is the currency of democracy (Spigelman 1972), then the right to publish should only be curtailed when there are clear and compelling reasons to do so, and the prerogatives of official secrecy only condoned when other principles override the public's right to know. However all societies have embraced some countervailing principles which restrict the right to publish. Some of these are contested in principle – in some there is conflict over how to draw the line, or implement the principle. But in Australia and other liberal democracies, some of the reasons for limiting the right to publish include:

- Protecting national security;
- Protecting individual privacy;
- Protecting professional privilege and confidentiality;
- Protecting commercial confidentiality;
- Preventing the growth of racial violence and hatred;
- Protecting society from terrorism;
- Protecting individuals from having their reputation unfairly impugned;
- Maintaining the integrity of judicial proceedings;
- Protecting social standards against obscenity and blasphemy;
- Ensuring that vulnerable members of society, especially minors, are not exposed to damaging or disturbing materials.

Only some of these are relevant to WikiLeaks, but their very range is a reminder that free speech, the free flow of information and the right to publish, are circumscribed when they conflict with a large number of other principles. However, while most people would accept most of the above list to at least some degree, each of them can also be extended in ways that might be seen as unduly restrictive and which give governments powers which they may abuse for their own advantage. It is into this long disputed terrain that the recent controversies generated by WikiLeaks fall.

This paper next examines the reaction that greeted the WikiLeaks publication of US diplomatic cables in late 2010, and shows how it repeated some of the themes in previous controversies involving leaks and 'plumbing' issues. The paper then assesses the WikiLeaks revelations against some of the principles often proposed.

The reaction and the lines of debate

The November publication of diplomatic cables unleashed a flood of rhetoric. Italy's Foreign Minister, Franco Frattini called it "the 9/11 of world diplomacy" (Leigh & Harding 2011: 200). Vice President Joe Biden called Assange "a high-tech terrorist", while his 2008 vice presidential opponent Sarah Palin thought that whoever perpetrated this "sick un-American espionage" should be pursued with "the same urgency we pursue al-Qaida." Republican congressman Peter King – a longtime supporter of the IRA – wanted WikiLeaks declared a foreign terrorist organisation, while one Republican presidential hopeful Mike Huckabee thought "anything less than execution" would be too kind a penalty. Another, Newt Gingrich, thought Assange "should be treated as an enemy combatant, and WikiLeaks should be closed down permanently and decisively" (Sifry 2011a: 18). At least a dozen other political and media figures – and not only on Fox News – sounded similar themes.

The US Government expressed most fury at Bradley Manning and WikiLeaks and much less towards *The New York Times* and the mainstream media – a politically convenient hierarchy of anger. Perhaps the most troubling aspect of the reaction was the way so many (mainly American) political and media figures talked so glibly and casually of Assange being executed or assassinated (Anon 2010). It is a further chilling reminder of just how routinely barbaric American right-wing rhetoric has become.

They also showed a laxity about specifying exactly what laws anyone had broken, a trait shared by Australian Prime Minister Julia Gillard and Attorney-General Robert McClelland. In both cases, their original statements soon rebounded on them. McClelland soon had to admit that Assange had broken no Australian laws (Keane 2010), while Gillard was criticised from many sources, including by her old boss. Peter Gordon, head of the prominent law firm Slater and Gordon, Gillard's former employer, said her comment that Assange had broken the law was baseless: "If the WikiLeaks disclosures tell us anything, it is that no government whatever its political colours, is going to hesitate for a nanosecond to conflate the notion of 'national security' with 'my own career security'" (Kissane 2010).

The most tangible reaction came when, under political pressure, key gatekeepers of online commercial intercourse – Paypal, Amazon, Mastercard, and Visa – all suspended their dealings with WikiLeaks (Gallagher 2011b, Leigh & Harding 2011: 203-208). Their actions hurt WikiLeaks, but equally, the ferocity of the counter-reaction may make them hesitate before again engaging in such censorship.

The vociferous criticisms that followed publication generally paid little attention to the specifics of what had been published. Hilary Clinton, the previous year, had welcomed the internet as a challenge to censorship, and likened it to the samizdat publishing in the Soviet Union (Rusbridger in Leigh & Harding 2011: 2). Now she was appalled by WikiLeaks:

The United States strongly condemns the illegal disclosure of classified information. It puts people's lives in danger, threatens our national security and undermines our efforts to work with other countries to solve shared problems. ... Disclosures like these tear at the fabric of the proper function of responsible government (Sifry 2011: 18).

Not surprisingly the politicians concentrated exclusively on the costs rather than the benefits of the disclosures, although one can surmise that positive consequences also followed. For example, the cables disclosed the low American opinion of the ruling clique in Tunisia, and may have been a factor in the uprising and regime change that occurred soon after there. Sometimes what is said matters less than who said it (McCarthy 2011). The venality of the regime was well known to Tunisians, but they did not know that American officialdom shared their critical views.

While the political hostility to WikiLeaks was predictable, more surprising was the negative treatment it received elsewhere in the media. Journalists normally are the most ardent proponents of Brandeis's view that the best disinfectant is sunlight (Holmes 1990: 27), and while many welcomed the leaks, others were scathingly critical. Christopher Hitchens (ABC 2010) thought Assange "a micro-megalomaniac with few if any scruples" while *The Washington Post* columnist Richard Cohen judged him "thoroughly contemptible" (2010) and Eugene Robinson (2010) thought that WikiLeaks 'nihilists' don't deserve any sympathy. Even *The New York Times*, which had just secured its greatest scoops in years, felt impelled to publish profiles denouncing its sources, Assange and Manning (New York Times 2011). As Assange observed, the notable feature of its article on Manning was the way it psychologised away the morality of his political dissent, occasioned directly by his experiences in Iraq.

Just as the politicians' protests are best understood as due to a loss of control rather than any substantial damage caused by the leaks, perhaps the key to media hostility is status displacement. For some journalists it seems as if retail leaking – by an individual source to an individual journalist, for whatever ulterior motive – is in the public interest, but wholesale leaking is somehow less worthy, even illegitimate.

The most constant theme in journalistic criticism has been the allegedly indiscriminate and hence irresponsible nature of the document 'dump.' But this is a fundamentally inaccurate criticism. While WikiLeaks initially leant towards releasing everything, by the time of the diplomatic cables release, it had been persuaded otherwise. The cables had been subjected to a long 'redaction' process, and by Christmas 2010 only 1900 of the quarter million documents had been released. This makes WikiLeaks very different from the *Climategate* mass leak of November 2009. Then the intent was to create confusion rather than clarity, to conjure a vague but powerful sense of impropriety and conspiracy, which it was eventually revealed did not impact on the substance of the science (Tiffen 2010).

The WikiLeaks revelations encapsulate recurring dilemmas and disputes involved in leaks and public disclosure. When should the news media override other institutions' views about what should remain secret and impose their own definition of what the public should know? When is it legitimate and helpful to use confidential sources as the basis for news stories? And frequently the two questions are linked, as the media use leaks to disclose information which the government or others say should remain secret.

The conventional lines of debate are well established. On the one side are those who view the disclosure of information through leaks as substantially damaging important public interests, such as national security or the integrity of the policy process, or the privacy of individuals. On the other are those who see leaks as benefiting democracy, as holding power holders to proper account and frequently disclosing official folly and wrongdoing.

However, the conventional debate about leaks is too narrow. While the two sides take directly opposing moral stances towards the phenomenon, whether it is a good or bad thing, in essence they are both addressing only one kind of leak – the subversive or dissident leak. But as *The New York Times* columnist James Reston famously observed, the ship of state is the only ship that leaks from the top. Appreciating the variety and pervasiveness of leaks in contemporary politics allows us to approach the topic with an expanded moral compass, and helps us to understand why most efforts at leak control are doomed to futility.

A leak can be defined as the unauthorized release of confidential information. However this umbrella covers many variations – that release may come from a dissident but also from someone in authority seeking political advantage, that confidentiality ranges from the very sensitive to the innocuous, from what was intended to be forever secret to the about-to-be announced (Tiffen 1989: 97).

An example of the hypocrisy surrounding the topic was found during the WikiLeaks saga itself. Assange, via the WikiLeaks lawyer Jennifer Robinson, confidentially wrote to the US State Department offering to cooperate on a redaction process before publishing the diplomatic cables in order to reduce damage to any individuals who may be exposed. This offer was rejected out of hand by the State Department, which then leaked its reply to the media (Barrowclough 2011). No doubt it would have been outraged if Assange had been the one to leak it.

Very often it is the fact of the leak rather than its content which most angers politicians. When a leaked record of a conversation between former Australian foreign minister Alexander Downer and the New Zealand High Commissioner was leaked, but Downer was determined to trace the source. The content was not damaging, but the Liberal minister's suspicions centered on a Foreign Affairs officer who had formerly been a Labor Party staffer, Trent Smith, who was subjected to official searches including of everything on his computer. This failed to implicate him in the leak at hand but showed that he had had other dealings with the Labor opposition. He was then put on fully paid leave for more than two years, awaiting the resolution of the new charges. Meanwhile the investigations into him and their outcomes cost taxpayers more than \$A360,000 (Grattan 2005).

A former head of the Department of Prime Minister and Cabinet during the Howard Government, Dr. Peter Shergold, a month after the 2004 election ordered a police raid on the office of the *National Indigenous Times*, after that newspaper published cabinet-in-confidence material about policy changes in Aboriginal affairs. In a subsequent speech, Shergold reiterated his determination that police would investigate all leaks. He told a lecture¹:

Some people are surprised that I called in the police – they shouldn't be, I always will. It's not just that theft is a criminal offence, it's also democratic sabotage. Leaking blows apart the Westminster tradition of confidentiality upon which the provision of frank and fearless advice depends (Johnstone 2004).

Dr. Shergold's insistence on the sanctity of the policy process would be more convincing if there weren't a wealth of anecdotal evidence of how successive governments have politicised the advice processes. More importantly in the very same episode, the Government's restructuring of aboriginal organisations, involving the abolition of the elected organization ATSIC (Aboriginal and Torres Strait Islands Commission), the Minister Phillip Ruddock had been caught on tape briefing Queensland journalists about what the government was planning (Johnstone 2004), including the promise to the journalist that his friends would be looked after. Soon afterwards Ruddock was promoted to Attorney General.

The vigour with which political leaders pursue leaks is most closely associated with the degree of political pain caused. Even in the Pentagon Papers, this was the core of President Nixon's concern. In one passage, captured on the White House tapes, revealed as a result of the Watergate scandal, Nixon's adviser Bob Haldeman quotes a point made by a very young presidential aide, Donald Rumsfeld.

Rumsfeld was making the point this morning that the real point of what is to "the ordinary guy" all gobbledygook, but out of it "the implicit infallibility of presidents, which has been an accepted thing in America, is badly hurt" because it shows "the president can be wrong" (Ellsberg 2004).

Protecting the "implicit infallibility" of presidents is a considerable distance from most conventional notions of national security, and shows how in willing hands such concepts can be almost infinitely expanded.

The Australian High Court has offered some protection against such infinite expansion. Sir Anthony Mason in 1980 held that a government could restrain the publication of confidential information only if it could establish that the information was still secret and, most importantly, that publication would cause real detriment, not just embarrassment, public debate and controversy (Turnbull 2010).

Nevertheless, most official complaints about unwelcome leaks are not content specific, but like Hillary Clinton and Peter Shergold, rely on a seamless conception of policy making and advice. The British Official Secrets Act, specifically the infamous Section 2 (Hooper 1987; Ponting 1985) was framed in this open-ended way, so that any disclosure, for example of what ministers or senior public servants had for their afternoon tea, would be an offence. Such sweeping, indiscriminate coverage – much more limited by the 1989 revisions which followed some infamous prosecutions by the Thatcher Government – meant that pursuit of leakers was inevitably selective and open to political discretion and partiality, and that many things were kept secret when there was no reason for them to be. Indeed while political leaders often stress the benefits of confidentiality for policy-making, the arguments for openness are at least as persuasive. As US senator and author Daniel Patrick Moynihan observed, "The great discovery of western science, somewhere in the seventeenth century, was the principle of openness." This meant that insights and evidence were shared and progress was greater because of the cumulative contributions of the relevant scientific community (Sifry 2011a: 20). Moreover, secrecy often encourages disastrous decisions through the growth of groupthink (Janis 1972), where key assumptions are not tested, and an illusory inner consensus is allowed to prevail.

So much of the public debate is conducted between two unsatisfactory polar extremes.

Many statements of WikiLeaks and its defenders suggest all secrecy is bad, that everything should be published, while equally, political leaders often adopt a similarly undifferentiated approach that all unauthorised disclosures are damaging. There are of course a range of sensible voices who seek to find a middle ground. The Melbourne academic, Suelle Dreyfus, author of the 1997 book *Underground: Tales of Hacking, Madness and Obsession on the Electronic Frontier* – in which she was assisted by a young Julian Assange (using the pseudonym Mendax) – argued that there must be a balance, but that it had shifted too far towards secrecy (2011). Journalist Geoffrey Barker (2010) argued that:

the point is that publicity and privacy are both essential to effective diplomacy. There has to be a balance between them – and governments generally tilt too far towards privacy while the media tilt too far towards unconsidered disclosure. Yet that perpetual tension is preferable to total disclosure or to total secrecy.

But how does one find the magic fulcrum that both these writers are searching for? And what principles might help?

Defining principles 1: endangering operational security

The most easily agreed on principle, although one that is only rarely relevant in disputes about news coverage, is that secrecy is essential in military operations, and that enemy knowledge of plans or operations or even sometimes capacities (Barratt 2011) will jeopardise success. The most infamous case occurred during World War II. After the Allied naval success in the Battle of Midway, the isolationist *Chicago Tribune* published the news that the Americans had cracked the Japanese naval communication codes, allowing them to intercept and understand Japanese signals, so they knew Japanese movements and plans. The American government was understandably outraged, as a key advantage they had would immediately disappear once Japan knew. There was talk of prosecuting the paper, which did not eventuate because they did not want to draw more attention to it, and fortunately, Japanese intelligence was not reading the *Chicago Tribune*.

Operational security typically has a time dimension. It is more relevant in ongoing and future operations and less often to ones past. Thus the Pentagon Papers, although they related to a war that was still continuing, concerned only past actions, and did not have contemporary operational significance. Most would agree that for example the news media should withhold government plans for how to counter an ongoing terrorist siege, for example – that delaying the public's right to know was fine in the interests of securing a successful outcome.

However, even here there are problems. In early 1961, *The New York Times* discovered that America was planning to support an invasion of Cuba aimed at overthrowing the Castro regime. This became known as the Bay of Pigs invasion. The newspaper decided not to publish on the grounds that it did not want to endanger a US military operation or the lives of those taking part (Sigal 1973: 80-84). No doubt in the anti-Cuban atmosphere of the times it made the politically pragmatic decision. But the US was planning to sponsor an invasion of a sovereign country, clearly against international law.

There is a general agreement that the media will not publicise terrorist threats. For example if there is a threat to target a particular airline, to publicise it could achieve the terrorists' aims, could inflict chaos and great financial costs without any physical action taking place. On the other hand, in 1989, western intelligence had several vague indications that an attack on an American airline flying from Europe was planned. That became the Lockerbie Pan Am 103 bombing in which hundreds of people were killed. Some diplomats and others knowing of the threats changed to a European airline (Wikipedia 2011). One WikiLeaks revelation confirmed the widespread suspicion that in 2003 the British had released the last Lockerbie bomber back to Libya under heavy commercial pressure from the Libyan government.

During war time the boundaries of operational significance are often disputed. Although morale can be an important part in the success of a war, is it the media's job to promote it, and where does this end? In 1991, during the Gulf War, many wealthy Kuwaitis had managed to leave the country and were living abroad while the war was being waged. A television crew in Egypt obtained film of some of them going to a nightclub, and others playing soccer (CNN 1991). Efforts were made to censor this film on the grounds that its screening would damage morale.

The Afghanistan and Iraq war logs published by WikiLeaks did not (as far as has been publicly disclosed) transgress any operational details that would endanger future success. Nevertheless – although both wars have long lost the support of large sections of the public – the cables probably damaged political support for the wars, precisely because they gave more information of how they were conducted. They offered an "astonishing insight into the minds of fighting men seemingly detached from the ethics of war" (Jenkins 2010). In Iraq, the body counts allowed a much clearer – although still far from complete – documentation of civilian casualties. Working from the logs, the meticulous and cautious Iraq Body Count group raised its estimate of civilian casualties from 100,000 to 150,000.

Defining principles 2: invasion of privacy and endangering individuals

Almost as consensually agreed on as endangering the security of military operations, is the principle that publication should not invade privacy or endanger individuals (Hurst & White 1994; Hirst & Patching 2007). This second principle was much more pertinent to the WikiLeaks publications than the first. Indeed, it formed one of the major criticisms of Assange. *The Guardian* journalists Declan Walsh and David Leigh were worried about the repercussions of publishing the names of Afghan informants who could easily be killed by the Taliban or other militant groups if the Afghan war logs were published in full. But when they raised this, according to Walsh, Julian's response "floored me. Well, they're informants," he said. "So, if they get killed they've got it coming to them. They deserve it." It should be pointed out that Assange has vehemently denied ever saying this. Apart from the inhumanity of the attitude, and lack of appreciation of the complexity of conditions on the ground in Afghanistan, Walsh felt that Assange didn't understand how naming informants would rebound on the whole project (Leigh & Harding 2011: 111). Later such names were taken off the WikiLeaks website, and it seems as if no harm did befall individuals named in the cables, but the potential was present, and the principle is crucially important.

Such concerns long predate WikiLeaks. In Australia in 1980, Richard Walsh and George Munster attempted to publish a book based on Australian diplomatic cables from Australian embassies abroad back to Canberra between 1968 and 1975. The Australian government tried to prevent publication on the grounds of national security. The original book was pulped, but publication in a different and more restricted form was later allowed (Walsh & Munster 1982). Later in the 1980s journalists Brian Toohey and Bill Pinwill obtained cables from Jakarta, including many from the security service ASIS. The Government argued that verbatim publication would have endangered sources who had helped Australia. Again, a settlement was reached, and a form of publication allowed (1989).

If the account of *The Washington Post* columnist Michael Gerson (2011) is accurate, there is another case where WikiLeaks publication went against this principle. Gerson was scathingly critical of WikiLeaks for helping the brutal Zimbabwean dictator Robert Mugabe. He said that the cables revealed that Zimbabwean Opposition Leader Morgan Tsvangirai had secretly supported Western boycotts against the Mugabe regime while publicly opposing them. Although at one level this is a classic case of a political hypocrisy – of a politician saying one thing publicly and another privately – given the danger in which Tsvangirai lives and the murderous regime he has so courageously opposed, publication should not have proceeded.

Two earlier WikiLeaks cases are also pertinent. They obtained and published the private emails of controversial Republican politician Sarah Palin and the historian David Irving, whose writings have often minimised the scale and the evil of the holocaust. Although many would judge both figures, especially Irving, to be unsympathetic characters, unless the emails revealed some massive wrongdoing, this does amount to an unjustified invasion of privacy.

The other case is more ambiguous. It published the membership lists of the racist British National Party. (Again, this duplicates an Australian case from June 1998, when *The Australia-Israel Review* published the names of 2000 members of Pauline Hanson's One Nation Party.) As a result of WikiLeaks's publication it was reported that one police officer lost his job as the BNP

is a proscribed organisation. While in a democracy many aspects of political preferences – such as who one votes for – should properly remain confidential if the individual wishes, membership is different, and this is not a mainstream political party, but one with intent to do harm to sections of society. So, one can mount legitimate arguments in both directions.

The care with which WikiLeaks had redacted the material in the lead-up to the release of the cables in late 2010 dissolved into farce nine months later. In a bizarre turn of events, *The Guardian* journalists David Leigh and Luke Harding had included in their 2011 book the password Assange had given *The Guardian* to access the files. Everyone had assumed that this password would have been changed since, but following some splits at WikiLeaks there was an encrypted file on which it still worked. Rumour spread quickly at the end of August that this was the case, and on September 1 WikiLeaks made the whole file public. This drew unanimous criticism from the five media partners WikiLeaks had had – *The Guardian*, *The New York Times*, *El País*, *Le Monde* and *Der Spiegel*. In addition, Reporters Without Borders withdrew their support for WikiLeaks (Ball 2011b). In turn, Assange attacked *The Guardian* for laxity.

The result, according to one estimate, was that several thousand cables were released which the US had tagged as believing that their release could put sources in danger, with more than 150 specifically mentioning whistleblowers (Ball 2011a). On Australian Security and Intelligence Organisation (ASIO) agent was named (Welch & Grubb 2011) as were 23 Australians with links to Yemeni terrorist groups, although most had already been publicly identified (Dick 2011).

Although some politicians denounced Assange's decision, the official reaction was strangely muted compared with the virulent rhetoric in late 2010, even though now there was far more reason for it. It is too early to know whether any of the individuals identified in the cables will suffer as a result of publication.

Defining principles 3: exposing the gap between public statements and private realities

The most common narrative when the media are reporting leaks is one of deception, of how governments are secretly doing or planning something they have not revealed, or of how public statements run counter to private beliefs and actions. Sometimes, the actions were conducted secretly precisely because they would meet with public disapproval if known. WikiLeaks had such cases in abundance. The most spectacular were the revelations that Israel, Saudi Arabia and other Arab states were urging the US to take action against Iran to stop it acquiring nuclear weapons. Another that gained great publicity was that the US Government had ordered its diplomats to get bio-data, credit card details and other information on UN officials.

Perhaps, the starkest contradiction between government leaders saying one thing, while their government did another came from Britain, where officials told the US that British officials told America to ignore Prime Minister Gordon Brown's statements on the UK's nuclear deterrent, Trident, and that the US would be allowed to keep cluster bombs in the country despite the ban on them signed by Brown (Gallagher 2010).

The least surprising – but still important – revelation was that Western officials were far more pessimistic about the progress of the Afghanistan war in private than they were in public.

The leaks make it abundantly clear not just that the US-Anglo-European adventure in Afghanistan is doomed but, more importantly, that the American, British and other NATO governments privately admit that too ... expose the extent to which the US and its allies see no real prospect of turning Afghanistan into a viable state (Naughton 2010).

Former head of the Australian Defence Department Paul Barratt judged that the "gap between the public statements and the government's real views (on Afghanistan) is outrageous" (Barratt 2010). And leading Australian diplomat John Dauth was quoted as hoping that the international community would get out of Afghanistan (Nicholson 2011).

Not all the gap between public statements and private assessments was in a pessimistic direction. For example, officials were more upbeat about the struggle against terrorism and especially against al-Qaeda than leaders had been in public (Burke 2011; Dorling 2010)

Rather more surprising was the wariness, even hostility, which Australian leaders showed towards China in their talks with American officials. Kevin Rudd exhibited such attitudes strongly. Malcolm Fraser (2010) strongly condemned the "slavish devotion" to the US exhibited in the secret discussions. "The idea of partnering the US in a war with China, which comes specifically from (then Labor leader) Kim Beazley's reported comments, is the ultimate example. A war over Taiwan would be an absurdity. The idea that we should participate in such a conflict is unconscionable and totally contrary to Australia's interests and indeed to Australian security."

Months after the initial furore around WikiLeaks in November, much more quietly, the dominant theme was that the controversy had caused little lasting damage to American interests. US Secretary of Defence Robert Gates judged "Is it embarrassing? Yes. Is it awkward? Yes. Consequences for US foreign policy? I think fairly modest" (Sifry 2011a: 18). But while this is much more accurate than the apocalyptic claims of damage that initially greeted the leaks, it is perhaps understating their impact. As former Australian diplomat John McCarthy argued "the content of WikiLeaks' revelations do of course matter" (2011: 3). It is likely that there will be many impacts, most of them publicly invisible. The Iranian and Afghanistan governments will certainly have taken notice. One imagines that China will deal with Australia rather more coolly as a result.

The value of leaks should not ultimately be measured in terms of who is helped and who is hurt, for example whether they help or hinder US conduct of the Iraq or Afghanistan wars. Rather there are issues of principle about what the public should know. Nevertheless, although one would like such judgments to be determined by principles beyond political preferences, they probably cannot be completely independent. Andrew Rasiej wrote about the belated discovery that his grandfather had been killed in the Katyn massacre in Poland in 1940. Only in 1992, after the fall of the Soviet Union, did it come out definitively that

those Polish officers had been murdered by troops acting on Stalin's orders, rather than by Nazi troops as had been believed at the time. Rasiej asks, what might have happened if the truth had been reported in 1940? "The result might even have altered the course of the war" (2011: 1, 2). It was a time of total war, where the survival of democratic Europe was at stake, and many would think that the total defeat of Nazism was the best course the war could have taken.

Similarly, WikiLeaks revealed that American planes and drones bombed a village in Southern Yemen in December 2009 killing 35 women and children. This was part of a secret agreement between the Yemeni government and the US for America to attack al-Qaeda in that country. Columnist Charles Krauthammer (2010) thinks that by this publication WikiLeaks did great damage to the US war on terrorism. Others would think that this is information the public has a right to know, and more good than harm is done by its publication. But there is no absolute vantage point for making such judgments.

Conclusion

Ironically, Assange himself was the victim of a leak. On Friday August 20, Julian Assange, through the services of a mutually trusted intermediary, was nearing an agreement with two Swedish women. Assange had had sexual relations with both, and both now felt strongly aggrieved towards him on several grounds, but most importantly both felt they had unwillingly been subjected to unprotected sex. They wanted him to be tested for HIV, which he initially refused. During this standoff, they went to the police and, to use the Swedish term, "sought advice". As a result, Assange was charged with rape. Meanwhile, Assange agreed to the test, but by that time on the Friday afternoon, the clinic had closed for the weekend (Leigh & Harding 2011: 145f).

However, almost immediately, the women's visit to the police was leaked to the Stockholm tabloid, *Expressen*, which splashed the rape allegations across its front page, and the news flashed around the world. Journalists were demanding a response from Assange. Caught off balance, he replied with characteristic militancy, referring to dirty tricks, implying he had been the victim of a honey trap. The two women were naturally affronted by the suggestion that they were dupes of the American government or anyone else.

Public hostilities escalated. The women hired a high-profile celebrity lawyer. Assange, now in London, with a similarly glittering team, faced bail and extradition hearings in Britain, which attracted saturation coverage. Both sides had to endure damaging and embarrassing public attention and allegations, as the legal proceedings followed their own immutable logic.

The important aspect is the way publicity transformed the process, how the fluidity of private negotiations solidified into formal adversarial proceedings, where each party's immediate interests now lay in sharpening rather than resolving the conflict. Without publicity, it is likely that conciliation would have been successful. Assange would have taken the test, which, when he did, showed him to be clean; the women would have been reassured although not reconciled to their former lover, and it is likely the whole matter would have disappeared.

The subsequent legal proceedings in London provided a new global spectacular, just at the moment when Assange, by delivering the largest leak of classified information in history, had become the most famous man in the world (Leigh & Harding 2011: Chapter 12). In late 2010, media coverage of the events in court often exceeded coverage of the leaks. Indeed according to his solicitor, more than three quarters of internet references to Assange also refer to rape (Catlin 2010). It was a powerful demonstration of how publicity limits possibilities, how it often removes flexibility in resolving conflicts, of how its impacts can be harmful as well as beneficial.

WikiLeaks has produced many dramatic revelations, especially in 2010. The extent to which it transforms journalism is yet to be seen. But in one respect at least – about what should and should not be public, about when publicity is beneficial and when harmful to desired outcomes – it intensified existing dilemmas rather than solving them.

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Editorial Notes

1 Ed. Note: The original reference for Peter Shergold's 'A State of the 'Unit' Address' from the speech, Plan and Deliver: Avoiding Bureaucratic Holdup, delivered at Australian Graduate School of Management/Harvard Club of Australia at the National Press Club (November 17, 2004) can be found http://www.dpmc.gov.au/speeches/shergold/plan_and_deliver_2004-11-17.cfm

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