

<p>2007-03-19</p> <p>WIKILEAKS WINS AMNESTY INTERNATIONAL 2009 MEDIA AWARD</p> <p>US detainee interrogation: a road not taken</p> <p>Shadow Bilderberg group meet in Greece</p> <p>Swedish journalist arrested for trying to penetrate secret Bilderberg meet</p> <p>Summit journalist arrested for trying to penetrate secret Bilderberg meet</p> <p>Australian Senate questions government on ACMA censorship and WikiLeaks</p> <p>Guantanamo's Immediate Reaction Force still terrorizing detainees</p> <p>U.S. Denies Incendiary Weapon Use in Afghanistan</p> <p>The Most Wanted Leaks of 2009</p>	<p>2010-12-04</p> <p>CONFIDENTIAL</p> <p>Tiger Woods UK media gag order, 10 Dec 2009</p> <p>Big Pharma inside the WHO: confidential analysis of unreleased documents, 8 Dec 2009</p> <p>Draft 2009-2010 climate change agreement, 8 Dec 2009</p> <p>US Therapeutic Goods Administration (TGA) Safety Review Process, 2008</p> <p>Sarah Palin Yahoo inbox 2008</p> <p>Yahoo compliance guide for law enforcement, 23 Dec 2009</p> <p>Microsoft COFEE (Computer Online Forensics Evidence) software, 2008</p> <p>Rechtsanwalt Solmecke unzensurierter Blogbeitrag zu Abmahnung, Nov 2009</p>
<p>2007-08-30</p> <p>CRS Report Leaks Prove Tough to Stop</p> <p>Obama's Chilling Crew: The legal harassment unit investigating Tony Podesta</p> <p>East Timorese go begging as foreign advisers rake it in</p> <p>Correction of DPA article in respect to WikiLeaks and Steve Jobs HIV test</p> <p>WikiLeaks.de back in service</p> <p>WikiLeaks.de Theodor Reppe im Interview</p> <p>Interview with WikiLeaks.de domain sponsor Theodor Reppe</p> <p>Mehr Details zur Wikileaks.de Stilllegung</p>	<p>2010-12-04</p> <p>CONFIDENTIAL</p> <p>WikiLeaks to release over half a million 9/11 text pages, Nov 2009</p> <p>Toll Collect Betreibervertrag, 5 Jun 2002</p> <p>Toll Collect AGES International Kooperationsvertrag, 20 Jun 2002</p> <p>Toll Collect Schweizer Bundesrat, 20 Jun 2002</p> <p>Rechtsanwalt Solmecke unzensurierter Blogbeitrag zu Abmahnung, Nov 2009</p> <p>Climate Research Unit emails, data, models, 1996-2009</p> <p>Davenport Lyons and DigiProtect Actionpoints for files, 2009</p> <p>Davenport Lyons and Kommeier Monetary and Working Paper, 2009</p> <p>Ermittlungsakte Landespolizeidirektion Tübingen gegen WikiLeaks, 12 Mar 2008</p> <p>Bestechung, 12 Mar 2008</p> <p>Confidential holocaust historian David Irving emails, 2009</p> <p>Confidential holocaust historian David Irving emails, 2009</p>
<p>2008</p> <p>WikiLeaks Domain ohne Verwalter</p>	<p>2010-12-04</p> <p>CONFIDENTIAL</p>

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WikiLeaks [SEC=UNCLASSIFIED]

JOHN McCARTHY

During the festive season we were entertained by the United States' diplomatic mail and by Julian Assange's alleged transgressions under the midnight sun. As 2011 gets underway, we need to think what WikiLeaks will bequeath us.

The Second World War created national security systems which were largely the preserve of the Executive Branches of Government. These showed only a limited disposition to share information with the Congress (in the United States) and parliaments (elsewhere). They showed even less inclination to share it with the public. Most systems espoused a strict ethic on the protection of information – reflected in the rule that information should be accessed on a need to know basis. In other words, only those cleared and actually working in on a sensitive issue should see information pertinent to it.

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For the first generation or so after WW2, the imperatives of the Cold War meant that the then prevailing mindset in governments about secrecy was not challenged in a serious way. It was in this environment that my generation (roughly the Vietnam generation) entered the foreign service. Most are now either in their final stages of running things or have recently retired.

Since we began our careers, there have been three historical shifts which have had a profound impact on the way nations work with each other and how governments deal with their own communities on international issues.

International security environment

The first reflected shifts in community attitudes to secrecy in government stemming from changes in the international security environment itself. Vietnam prompted real doubts in the United States and elsewhere about decision-making processes in the Executive Branch of the United States government on what was increasingly seen as a dubious external venture with profound domestic implications. People wanted to know the truth. (Watergate and the more recent example of the intelligence assessments of Iraq's WMD confirmed the mistrust.)

Moreover, legislatures were demanding from national executives a more equitable distribution of power—which involved more access to information on all matters of government. And increasingly the relatively new phenomenon of civil society was demanding greater access to information.

With the end of the Cold War, the rationale for secrecy on national security issues became even less readily acceptable, even taking account of the changes which had taken place in the Vietnam years.

Then, after 9/11, national security again became a priority and, together with this, the need to safeguard information. People accepted the need for secrecy, but within narrower bands, specifically on counter terrorism issues.

On broader security issues there is much greater openness than we had 20 years ago. Internal United States government discussions on policy approaches in Iraq and Afghanistan quickly get into the public arena, for example. And it is hard to imagine a book like Bob Woodward's "Obama's Wars," which includes information based on frank discussion by the principal players of very recent policies on Iraq and Afghanistan, appearing in the 70s or 80s. Indeed, in the 80s, books like "Spycatcher" were the subject of hard fought government efforts at suppression.

A new information world

The second historic shift was of course the internet. New forms of information storage and communication have created a new information world with which many of my generation—even 20 years into this revolution—are not particularly familiar. We use emails and know how to access a website, but most would have only a vague idea how a cyber war might be conducted. Few would have much concept of how to mount public diplomacy programs (programs designed to influence the views of institutions and publics in foreign countries) using modern techniques. Almost none would have comprehended how it was possible for Private Manning to download 250,000 cables onto a CD.

Against this, the lives of the younger half of our populations have been increasingly moulded by the availability of information. They would not have heard of D-notices (the system by which Australian and British governments persuaded editors not to publish items, the publication of which was deemed

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prejudicial to the national security interest). They believe they are able to find out what they want within five minutes on line. They are much less easily persuaded of the merits of safeguarding information than were their parents.

Globalisation

The third global shift is a change in the nature of foreign affairs itself. Globalisation, the desire for sustainable development and accelerated scientific discovery have meant the conduct of national external policies has become more multifaceted. Information sharing has had to adjust accordingly. Most old style Foreign Service practitioners were brought up on a diet of security and commerce. Today their work not only includes these worlds, but education, science and a multitude of other disciplines. There is an entirely new agenda of so-called transnational issues: climate change, drugs and people smuggling, the control of new diseases. Anyone running a large embassy now will tell you how many people from different sectors come through its doors. Foreign policy has many more stakeholders wanting to know what is going on and whom governments need to keep in the policy generating process.

These three shifts have meant that the information climate in which governments operate is now very different to when my generation got into the business. We are intelligent enough to realise this. However, like the frog boiling slowly in water, we may not have grasped how much things have changed.

Long-term impact

WikiLeaks' long-term importance will not lie in the details it has revealed. These will prove ephemeral. It lies rather in the reactions to WikiLeaks in western democracies and what this shows about the difference between community thinking and official practice.

The content of WikiLeaks' revelations do of course matter. They have caused a whole complex of difficulties both within and between nations. Opponents of this view say that WikiLeaks only revealed what was known anyway – and everyone talks tough in private – so who cares? They are only partly right.

Who says what matters a lot. To have a journalist say X is a venal idiot is one thing. To have a US embassy say so is another. Examples come to mind here in relation to American comments about figures in Afghanistan and Pakistan.¹ To assume that Leader Y thinks part of his national constituency is a dangerous bunch is one thing. To have him quoted as saying so to the United States ambassador is another. The release of comments by Indian politician Rahul Gandhi about the Hindu Right caused enormous strain.²

And to have a leader quoted speaking in blunt terms about another country —particularly where that country is a supposed friend—is yet another. Lee Kuan Yew's alleged comments about Malaysia have caused open friction between Singapore and Malaysia. Lower level Singaporean comments about Japan and India will stay on people's minds in those countries. King Abdullah would not be too relaxed seeing his remarks about cutting off the head of the snake (Iran) in the press, and closer to home Mr Rudd could have done without seeing in print comments he is alleged to have made on China.

Make no mistake. Face matters everywhere. And it matters a great deal more in Asia and other non-western societies. Certain things are never said publicly —particularly comments about lack of intellect or status. And remarks coming from a leader have a particular positive or negative force. Aggressive, rough language, when uttered or even repeated in public, is not acceptable.

But the plethora of private diplomatic squalls arising from WikiLeaks will not necessarily have long-term impacts on the

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1. "Afghanistan says confidence in U.S. hurt by WikiLeaks", Reuters, December 6, 2010

2. Indian news broadcaster, NDTV, "Rahul Gandhi responds to WikiLeaks controversy on Hindu extremism remarks", December 17, 2010.

relationships involved. In the end nations have to deal with each other. As Professor Gareth Evans has pointed out, in the end, people like to talk.³ While much of what has been said will not be forgotten, nations are driven by interests.

As for the effect on those who have to deal with the United States itself, the fascination most politicians and diplomats have for a private exchange with the great and powerful will doubtless soon prove again to be deeply and irresistibly seductive.

But all these considerations belong to the world of diplomacy. For most people, the WikiLeaks stories have been enjoyable reading and have confirmed a broad view that much of the secrecy in government was excessive.

It has also been observed that the WikiLeaks phenomenon will impact on democratic countries rather than authoritarian ones. It will. In most of the latter, a website of this type would be shut down and the leaker would disappear. These countries cannot of course avoid the information revolution, as regimes in Burma and Iran have discovered. Management of the web is a constant issue in China. However, in the end, WikiLeaks is a product of democracy.

Mr Assange's curious world view is seen by some as heralding a new international global political movement, with Mr Assange as a new age Che Guevara. Neither is likely. When we are done with the hype from some political leaders and with the vicissitudes of Swedish (and United States) jurisprudence, the more ambitious of Mr Assange's attributions will fade. However the view that the David of the New Information Age has taken on the Goliath of the National Security State will likely endure, together with the fact that most people in the west—particularly the young—will have barracked for David.

Official versus community attitudes

If these arguments are broadly accepted, there will be two lasting perspectives on WikiLeaks. The first is that most people, particularly the young, sympathise with the WikiLeaks happening and what it represents in terms of information flow in a new era, even if they have limited time for Mr Assange himself. The second and related perspective is that most people in populations in western countries do not have anything like the same problem with the material released as do governments. What appears to be occurring—and must not—is a widening gulf between official and community attitudes.

There is no question the United States and others will tighten up on who gets what information—certainly in the short term. To the extent that new measures are required in the United States to prevent other Private Mannings from repeat performances, few could sensibly quarrel with whatever measures are genuinely necessary. Even for those barracking for WikiLeaks, the idea of having two million odd people with the same access as enjoyed by Private Manning is clearly absurd. However those in the American system advocating as a template for the provision of information “responsibility to provide” rather than “need to know” are now less likely to prevail. This will be a pity.

The initial tendency in systems akin to Australia's will also be towards less rather than more openness—an irony since much of Mr Assange's support comes from the advocates of freer information.

In Australia a lot of material is heavily restricted anyway. The most pronounced short term result here is likely to be an increase in the existing tendency to keep material out of the main cable communications system using emails to one or two addressees, and rather comically in this age, the telephone.

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3. Quoted in “Leaks, damned leaks”, by Daniel Flitton, *The Age*, December 3, 2010

This behaviour in the Australian system is a response to fear of leaks, but also to fear of Freedom of Information (FOI) laws. The regrettable but understandable tendency is not to put down comments or report conversations which contain views at variance with government policy. There is also a tendency to avoid rocking the boat, for instance when a foreign government criticises an Australian action privately and the Foreign Service practitioner does not want it spread around the system.

A climate of inhibition

This climate of inhibition is not in the national interest. A good policy requires all sensible points of view to be reflected, representing different foreign policy and domestic interests. This means that the relevant people need to be informed of what is coming in and going out. A good cable system does this.

Over the longer term, the test in Australia will be to create an internal culture where greater openness is seen as the avenue to better policy - albeit at the cost of the occasional leak or the odd embarrassing FOI release. Interestingly most leaks - certainly of documents - are from Ministers' offices or from the rare malcontent within the system - not from the 99.9 percent of the public service or military personnel who just do their jobs.

A more grave concern is whether there will be serious attempts to close down WikiLeaks or sites like it. Measures seeking to impact on WikiLeaks' operations, funding etc suggest that such thinking is not entirely absent from the minds of the American administration and indeed other governments.

This brings up the freedom of the media argument. The difference between what Mr Assange does and what a newspaper does relates only to the scale of the leak

and the related technological means of catching it. The principle is the same. If our systems permit one, it is hard to proscribe the other. If they can proscribe one, they can probably proscribe the other.

But what of the longer term? While sinologists might dispute the truth of the comment made by motivational speakers, politicians and the like that the Chinese word for "crisis" is the same as for "opportunity", it is a handy way of suggesting that over time, WikiLeaks could actually generate a more open and contemporary approach to the business of managing foreign relations in democracies like Australia.

If WikiLeaks does indeed demonstrate that there is real community support for more openness, this will be an important and positive outcome of the whole controversy - one which politicians will be unable to ignore.

WikiLeaks is likely to prompt a surge of thinking and activity within those circles in Australia pushing for more freedom of information. The profile of WikiLeaks as part of our daily media fare is stimulating it.

The climate on freedom of information both in the context of government as a whole and in the narrower field of external relations, is already under unprecedented scrutiny. For example the Australian Law Reform Commission has proposals before the Government to amend the Crimes Act which would make unauthorised release of certain information punishable by up to two years' imprisonment.⁴

WikiLeaks is also likely to stimulate thinking in relevant Australian and other western ministries about how to handle information in future.

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4. While some changes to FOI laws came into effect on 1 November, 2010, the Government has yet to amend s70 of the Crimes Act which makes the unauthorised release of information punishable by up to two years imprisonment. There are 500 other secrecy provisions in Commonwealth statutes. See Secrecy Laws and Open Government in Australia (ALRC Report 112): <http://www.alrc.gov.au/inquiries/secrecy-laws-and-open-government>

In Australia, not only is non disclosure the default position—a view which American officials, according to Wikileaks, seem to share—but arrangements for information protection are complex and these are driven by a number of considerations, some of which have real merit.

They begin with privacy provisions which probably should not be significantly amended, and which most of the public would tend to agree should stay intact—for example, non disclosure of personal details of ordinary citizens who have a consular problem.

At the other end of the scale is protection of genuine national security information, such as an imminent naval action or protection of a real intelligence source which could be jeopardised or endangered by disclosure. Again, most would not quarrel with the status quo. Most would also agree that a bottom line of a trade negotiation should be protected.

Then there are areas where foreign governments or individuals have given information in confidence. Should this be protected? If we do not dispute the right to business confidences, protection of media sources or protection of police informants, we should respect genuine confidences imparted to our diplomats. Anyone in the diplomacy business would support maintaining such confidences. However the public response to WikiLeaks suggests Governments may have work to do to bring publics along to this viewpoint.

And what about frank assessments of what is happening in another country? It does not make sense to create a climate in which embassies are afraid to report critically of people in their host countries for fear of it getting in the media. For example, when they knew there was corruption in the Suharto family, our Embassy in Jakarta had to say so, but

their continued ability to work with the Indonesian government would have been jeopardised had this assessment appeared in print.

That said, more than 80 per cent of the content of general political assessments and 90 per cent of general economic assessments could be freely shared, even though the material has the imprimatur and significance of being a government view.

These questions become even less straightforward when considering protection of potentially embarrassing statements. In a domestic political setting, this could include a minister saying something different to his stated view three months earlier, or criticism of a community group by a government department, or part of a department expressing views inconsistent with national policy. This might include such assessments/relayed opinions as the war in X will create more terrorism, or the Australian aid program in Y is wasting money.

The current of change

There are real issues here in terms of the difference between what a government thinks must be protected in the public's interest and what the public itself might believe. Governments will need to give ground here.

Even under the current forward looking leadership in the Australian Department of Foreign Affairs and Trade, and elsewhere in government, any serious attempt to bring these systems into line with modern attitudes to information will be difficult. For example, making FOI provisions broader only makes real sense if accompanied by attitudinal changes in the bureaucracy. Otherwise the tendency will be to put even less on paper. The priority in the first instance should be a disposition to enter into much

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freer debate both within government and outside of it.

The Americans have a system of publicly-issued National Intelligence Estimates which can differ from main policy lines.⁵ In the past decade, aspects of these papers have been at variance with Administration policy on Iran and Iraq. And the State Department publishes annual Human Rights reviews of all countries, often including comments highly critical of countries with which the United States has close security relationships, including Uzbekistan, Egypt or even Israel. It is difficult to see either of these practices taking off quickly in Australia. But with a strong push from the top, they could.

WikiLeaks has underlined that community attitudes on freedom of information issues are going through substantial generational change. It behoves governments in democratic countries to go with the flow and begin to embrace the current towards greater openness with more vigour. Ultimately, principled open government should be the basis for the implementation of foreign policy. We promote transparency and open government elsewhere. We should be prepared to put our own houses in better order.

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[13 January 2011]

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5. A useful background by Greg Bruno and Sharon Otterman is published on the Council on Foreign Relations website: http://www.cfr.org/publication/7758/national_intelligence_estimates.html