

Case study of the Wikileaks Whistleblower

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Abstract

The ethical debate for the whistleblowing of the US-Embassy cables has shown two very strong sides, and from the questions raised in this paper it can be seen that there is issues with both the US military and diplomatic actions, the handling of the case by the State Department, the way the cables were leaked, and the way the cables were handled/published. A method is applied to clear the debate from an ethical point of view, and includes some of the latest news reports as the new batch of cables announced at the end of November continues to be released.

1 Introduction

Wikileaks.org is a whistleblowing website that was founded by Julian Assange[1] in 2006. Its purpose was to provide whistleblowers with a medium to publish their case to the general public and preserve their identity. Wikileaks.org made a huge breakthrough when they released video footage[2] showing a US military helicopter squad engaging over a dozen suspects in Iraq, including two news staff, and the wounding of children. The video was not available under the Freedom of information Act in the United States and instead was decrypted from an anonymous whistleblower by Wikileaks.org and uploaded.

Since then Wikileaks has sourced hundreds of thousands of confidential cables from the US embassy, and has published them at various stages. The main bulk of cables released revealed many unethical issues with Iraq war, especially regarding the civilian death tolls[3]. Very recently Wikileaks has published another batch of cables, with an emphasis on controversial diplomatic strategies, including the spying of UN officials[4]. Overall Wikileaks has revealed controversies in; dealing with prisoners in Guantanamo bay, the Afghan war, international espionage, the 9-11 attacks on the World Trade Centre amongst many others[5].

The reactions to Wikileaks have been strong on both sides. The Guardian has defended its publishing of cables from Wikileaks in what it calls a "responsible manner", pointing out that most of those cables are actually more widely published and less confidential than suggested[6, 7]. The US government has repeatedly criticised the release of the cables, as Hillary Clinton described it as an "attack on the international community, the alliances and partnerships,

the conversations and negotiations that safeguard global security and advance economic prosperity” while defending the US State department[8].

The debate around Wikileaks has been around two conflicting rationale regarding the common good of the public. One is that the people have a right to know about what is happening in the world and in their country, given through the freedom of information type acts of their legislations. The other is that the current practices for diplomatic negotiations, forming international relations and other government activities are often very sensitive processes and need a high level of confidentiality and security to work. To illustrate this point, the US State Department advised Julian Assange that the leaks will endanger lives, including military operations[9]. Julian Assange was questioned whether he should ”censor any names that [he feels] might land people in danger from reprisals”. His answer was clear that there was no allegation of any harm caused by his leaks, even from the Pentagon

Those leading the two sides of the debate are using some interesting tactics to deal with the other, in a moral principle to protect the common good. Wikileaks leaked a document revealing US tactics to neutralize Wikileaks, including a potential hacking of Wikileaks[11]. Wikileaks has actually been hacked many times by mass traffic since, and lost its DNS provider as a result [12]. Some government departments have banned Wikileaks in their countries, such as Australia, which later removed its ban, and the United States Military[13, 14]. Julian Assange has had to take very defensive positions against the aggressive pressure faced[15], including Interpol for rape charges. The US has been introducing a new bill to deal with whistleblowers fairly, paving a secure pathway that would bypass Wikileaks[16].

2 Discussion

It is clear that there is a need to resolve this debate. On a global scale, to ethically determine who is in the right, the issues of whistleblowing, journalism, media, law, national and international security, transparency, corruption at upper levels, classifying documents and a large number of other rationale need to be broken down. It is intuitive to see Wikileaks on a higher philosophical level, regarding the common good, morality, law and reason. However, any ethical answer on the debate of Wikileaks will itself be open to interpretation, and the broader the context the broader the door for interpretation.

To begin the debate, it is recommended to break down the argument into its components; the issue of whether the sources were right to whistleblow and give the cables to wikileaks, whether wikileaks had a right to publish those cables. The section regarding whistleblowing is clearly related to computer ethics, since it considers the access and copying of the cables. The section regarding wikileaks publication is clearly related to media and publication rights under the freedom of information acts in each country concerned.

This case study will analyze the whistleblowing case of the 250,000 US embassy cables, to illustrate the logic and reasoning that is recommended in dealing

with the debate and can be applied to the other areas. To do this, a top-down methodology by Liffick has been recommended in analysing the ethical scenario [17] as follows; list the participants, reduce list by simplifying assumptions, legal considerations, list options of the participants, justification for actions, key statements, questions raised, and related issues. The argument will follow a dialectic flow between the two sides.

2.1 participants of the US state Embassy whistleblowing[18]

- US State Department
- Private Bradley Manning
- Julian Assange/Wikileaks, New York Times, The Guardian, Le Monde, El Pas and Der Spiegel publishers and the media.
- SiproNet users
- US Military
- Personnel named in the cables with controversial or unethical behaviour, in the US and internationally
- Adrian Lamo

2.2 reducing list

SiproNet users, of which there are up to 3 million US citizens with access. Ethically many of these other users were in the same position as the source of the Wikileaks whistleblowing believed to be Private Manning. They are relevant to the case, but the ethics of whistleblowing applies the same to the source as to others with access. That is it doesn't matter who whistleblowed as much as whether it was right to. So we assume the right of whistleblowing is content based and not personally based so we can assume the other SiproNet users are not to be analyzed in this ethical case.

Adrian Lamo reported Manning as the source to the Military. His action does question the reasoning behind the whistleblowing but is in line with the US Military's decisions, and it is assumed Adrian Lamo acted for the Military's interests and is taken into account when we analyse the US Military's position. Bradley Manning will be identified as a single participant due to the charges from the US State Dept specifically.

Is the US Military in line with the US State Department? Accountability for anyone following procedure goes directly to those in charge. It can be assumed that all those in the Military who acted unethically such as in the helicopter video massacre released by Wikileaks, if they followed the protocols they are freed of accountability but clearly there is war crimes coming from the Military itself that must be accountable not only by the US State Department but coming from the US Military itself. However, just like the diplomatic cables that have

been released, the US State of Department is accountable for the actions of its Military and its diplomats and all other US participants. This assumption of all US participants who acted irresponsibly to come under the US State department.

The media including Wikileaks publish cables they believe to be of importance to the public good in terms of freedom of information, transparency and accountability. Once they know that the source is valid and that the material contains information containing seriously unethical practices, their case is a separate issue of how to handle that data. In terms of the whistleblowing case itself, the whistleblower transferred cables to these medium in good faith. There are differences between each medium the whistleblower should have been aware of and these options will need to be looked at from an ethical point of view.

2.3 options of participants

The whistleblower had the option of distributing the media directly to respected media such as the media Julian Assange has passed onto, media which will filter important names before publication. There is also the option of dealing with the issues internally through ombudsmen in the State department or reporting to further up the chain of command in the Military or departments that allow for confidential internal auditing. The steps for the whistleblower were to address it to supervisors, which private Bradley Manning reportedly did, and when unattended to, go elsewhere. Exactly what steps the whistleblower took is unknown, and anything Bradley Manning reportedly did came from one source, described as extremely untrustworthy[19]. Wikileaks may have been chosen for its freedom of national press or possible easier access by internet.

The participants in the helicopter massacre video may have had a few options. They were given permission to engage, and the US military internal investigation found that those soldiers acted followed "Rules of Engagement" and were in accordance with the law of armed conflict [20]. However, the video showed clear violation of the Geneva Convention, war crimes[21], raising the question of what options the internal military investigation used in coming to its decision, and what options the US State department had to deal with it. Therefore the US military and US state department had a few options. The Military and State could have charged those who committed the war crimes, or those who developed the rules of engagement, or whoever was responsible for clear war crimes. They could have chosen to review the internal investigation report which found the soldiers engaging in proper conduct. They could choose to charge the person who leaked the video and those who publish it, assuming that the video release was itself the problem and not the conduct of the soldiers. This is the option that was taken when Private Bradley Manning was charged with leaking the video and many other cables.

The participants in the diplomatic cables, especially diplomats, also had a few but limited options. They could choose to follow orders in developing secret negotiations, often necessary in sensitive times and places, or to whistleblow

any unethical issues such as the order by Hillary Clinton, head of the US State department, to spy on United Nations officials[22, 23]. The diplomats also had a choice to resign. The US State could have decided to act responsibly in assigning orders to the military and diplomats, including responsible reviews of everything. The US State department have the choice to charge those who act irresponsibly, and to judge what is irresponsible based on its judicial and legal system and its own internal procedures.

2.4 Justifications

For the whistleblower:

- Many of the cables, including the video of the US Military Helicopter collateral murder in Iraq, needed international attention.
- The internal system, including the US State of Department, was not being fully accountable for illegal activities and for the clear failure of the internal investigations to resolve these issues.
- The belief that information should be free to the public domain and not classified as is the case.

For the US State Department:

- The need to protect National Security, for the progress of diplomatic and military work. They see a case where procedures are set in place and the sensitive work that is being carried out by protocol should not be put to the public domain where sensitive information could lead to mistrust of foreign parties and knowledge of military operations going into the wrong hands.
- Taking its military internal report of the video findings as the measure to judge the whistleblowing case, the whistleblowing case loses its viability and the whistleblower is then seen as breaking computer and military codes of conduct, and breaking the law.
- The disclosure of classified documents to wikileaks was illegal and deserves to be charged.

2.5 Key Statements

For the whistleblower: Excerpts from IM logs reportedly between private Manning (bradass87) and Adrian Lamo (Adrian) [24].

(12:15:11 PM) bradass87: hypothetical question: if you had free reign over classified networks for long periods of time... say, 8-9 months... and you saw incredible things, awful things... things that belonged in the public domain, and not on some server stored in

a dark room in Washington DC... what would you do? or Guantanamo, Bagram, Bucca, Taji, VBC for that matter... things that would have an impact on 6.7 billion people. lets just say *someone* i know intimately well, has been penetrating US classified networks, mining data like the ones described... and been transferring that data from the classified networks over the "air gap" onto a commercial network computer... sorting the data, compressing it, encrypting it, and uploading it to a crazy white haired aussie who can't seem to stay in one country very long. crazy white haired dude = Julian Assange. in other words... ive made a huge mess :(

(12:46:17 PM) Adrian: how long have you helped Wikileaks?

(12:49:09 PM) bradass87: since they released the 9/11 "pager messages". i immediately recognized that they were from an NSA database, and i felt comfortable enough to come forward, so... right after thanksgiving timeframe of 2009. Hilary Clinton, and several thousand diplomats around the world are going to have a heart attack when they wake up one morning, and finds an entire repository of classified foreign policy is available, in searchable format to the public...

(12:54:47 PM) Adrian: What sort of content?

(12:59:41 PM) bradass87: uhm... crazy, almost criminal political backdealings... the non-PR-versions of world events and crises... uhm... all kinds of stuff like everything from the buildup to the Iraq War during Powell, to what the actual content of "aid packages" is: for instance, PR that the US is sending aid to pakistan includes funding for water/food/clothing... that much is true, it includes that, but the other 85 [percent] of it is for F-16 fighters and munitions to aid in the Afghanistan effort, so the US can call in Pakistanis to do aerial bombing instead of americans potentially killing civilians and creating a PR crisis. theres so much... it affects everybody on earth... everywhere there's a US post... there's a diplomatic scandal that will be revealed... Iceland, the Vatican, Spain, Brazil, Madascar, if its a country, and its recognized by the US as a country, its got dirt on it. i just... dont wish to be a part of it... at least not now... im not ready... i wouldn't mind going to prison for the rest of my life, or being executed so much, if it wasn't for the possibility of having pictures of me... plastered all over the world press.

Excerpts from the Q&A session with the Guardian[25]:

"For the past four years one of our goals has been to lionise the source who take the real risks in nearly every journalistic disclosure and without whose efforts, journalists would be nothing," said Assange. "If indeed it is the case, as alleged by the Pentagon, that the young soldier Bradley Manning is behind some of our recent disclosures, then he is without doubt an unparalleled hero."

”WikiLeaks has a four-year publishing history. During that time there has been no credible allegation, even by organisations like the Pentagon that even a single person has come to harm as a result of our activities.”

Final Excerpt from a Time Special [26]

Julian Assange:

”[But] she should resign if it can be shown that she was responsible for ordering U.S. diplomatic figures to engage in espionage in the United Nations, in violation of the international covenants to which the U.S. has signed up. Yes, she should resign over that.”

Regarding the cables: ”They are all reviewed, and they’re all redacted either by us or by the newspapers concerned,” he said. He added that WikiLeaks ”formally asked the State Department for assistance with that. That request was formally rejected.”

For the US State Department: Excerpts from Hillary Clinton’s formal response from the White House regarding the cables[27]:

”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. This disclosure is not just an attack on America’s foreign policy interests. It is an attack on the international community - the alliances and partnerships, the conversations and negotiations, that safeguard global security and advance economic prosperity.”

”I want to make clear, our official foreign policy is not set through these messages, but in Washington. Our policy is a matter of public record, as reflected in our statements and our actions around the world. There is nothing laudable about endangering innocent people. There is nothing brave about sabotaging the peaceful relations between nations on which our common security depends.”

A separate occasion afterwards[28]: ”The work of diplomacy is on display,” Clinton told reporters. ”It was not our intention for it to be released this way – usually it takes years before such matters are. But I think there’s a lot to be said about what it shows about the foreign policy of the United States. Everybody has a right to have us talk to them, and have any questions that they have answered, but at the end of the day – as a couple of analysts and writers are now writing – what you see are diplomats doing the work of diplomacy,” she said. ”I really believe that we had to reestablish trust, to reestablish relationships, so I take this very personally.”

Responses from the US State dept29:

”The publishing of the cables would ”‘place at risk the lives of countless innocent individuals”, including journalists and soldiers; threaten ongoing military operations; and undermine ”cooperation between countries,”.

State Department Legal Advisor Harold Koh to Assange[29]: "Despite your stated desire to protect those lives, you have done the opposite and endangered the lives of countless individuals. If any of the materials you intend to publish were provided by any government officials, or any intermediary without proper authorization, they were provided in violation of U.S. law," Koh wrote. "As long as WikiLeaks holds such material, the violation of the law is ongoing."

There are many other statements but these will suffice to make an objective dialectic argument.

3 List Questions Raised

- Was private Manning the whistleblower?
- Do the Military have substantial evidence of the conversation or of testimony from Manning that will hold in court.
- Given the time that Bradley Manning has been detained for questioning and the US state department building their case, is that an indication that the US State Dept can't yet make their case against Private Manning?
- Why did the whistleblower choose Wikileaks?
- Why did Assange describe Bradley Manning as a Hero if it was him, but avoided declaring it was him?
- Why are many of the media describing the controversial video of the helicopter engagement in Iraq as shocking and wrong but yet the internal military investigation found that the soldiers acted appropriately in the Rules of Engagement?
- Did the whistleblower have enough reason to believe from the evidence in the cables that it needed to be leaked to the media?
- Was the whistleblower bound to the computer and military codes of conduct regarding whistleblowing?
- Was there a precise careful method used to choosing which cables were needed and a thorough plan of who was the most responsible person to leak to, and was it necessary to leak the complete collection of cables or is there some that should have been left untouched, for example some diplomatic cables?
- Could the leaking be considered careless and reckless?
- Which is more important for the public good? International security through ongoing classified diplomatic relations or the publication of 'truths' regarding misconduct of some officials and affecting the work of other government officials?

- Is it better to reveal unethical practices in the military while exposing and naming ongoing ethical military operations?
- Should names and sensitive information be filtered from the publications or is that a central dogma to the freedom of information?
- Should the Whistleblower be accountable for not selecting and forwarding only the unethical cables?
- How does the whistleblower judge what is unethical practice in the military?

3.1 Related Issues

The release of the cables has been contrasted to the Pentagon Papers[30]. Both highlight "credibility" gaps between the administrations' press releases and private actions. The difference is mainly in the type of information leaked. The Pentagon Papers were high level secret documents exposing issues with the Vietnam War and covered a large period. The 250,000+ cables released by Wikileaks are lower level classified documents with patches of information scattered, and the question is will they have enough substance to picture the puzzle of what the conspiracy theorists have believed all along. Its worth remembering that there are higher levels of secret documents, and those cables leaked by the whistleblower are not of significant clearance level to leak the more important high level secret documents.

3.2 Final Answer-forming a reasonable opinion

Clearly we can see from the breakdown that the whistleblower felt the cables affected the entire world, and private Bradley Manning mentioned that he would risk imprisonment and even death to do what is right, a clear sign of altruism. If the weight of public need for this information overwhelmed the public need for security then clearly the whistleblower did the right thing. Given that the cables were released at least 7 months after the cables were written, the world of diplomatic negotiations and military operations have surely moved on and changed in that time, so to say military and diplomatic work has been jeopardised is not as significant as the US State Department would believe. Given that the latest batch of US state embassy cables regarding US diplomacy are being published by the media with names filtered this time, and that so much time has passed to make them less critical in the recent work the governments are trying to achieve, it makes sense that the need for national security is much less affected by the latest batch of cables as claimed, and the need for public access to know what happened still stands, the whistleblower is clearly in the right to have done so, in whatever media he chose. Knowing the risks the whistleblower would have had to face on this scale against possibly the most powerful country in the world, its perfectly understandable to choose Wikileaks.

The US State Department have no right to have had Bradley Manning in custody for so long without proper charge, and had no right in standing by the flawed Military internal reviews and should be responsible for its actions. Hillary Clinton as head of the US State Department should take this responsibility. Given that she signed the operation to gain illegal intel on UN officials, and the lack of responsibility, it seems the whistleblower is not the one in the wrong, but Hillary Clinton as head of the US State Department. There are other people also responsible for the failings in the Military, US state department, and other international and national governments and organisations.

4 Conclusion

The ethical debate for the whistleblowing of the US-Embassy cables has shown two very strong sides, and from the questions raised it can be seen that there is issues with both the military and diplomatic actions, the handling of the case by the State Department, the way the cables were leaked, and the way the cables were handled/published. Using the logical methodology of a top down breakdown approach and using dialectic argument for both sides it is open to interpretation and leaves the reader with an educated self-formed opinion of the greater truth that should be revealed by the method.

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