

*"All that is needed for evil to prosper is for people of good will to do nothing"*—Edmund Burke

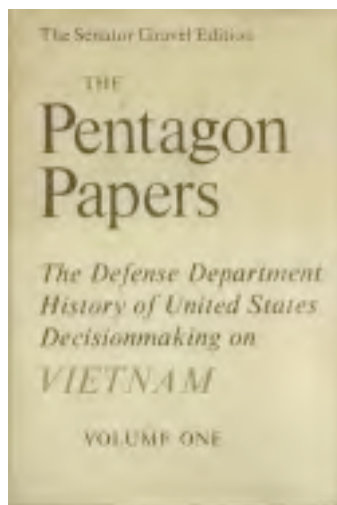
# *The*



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**Everything's leaking!**

### The practice and politics of leaking

Kathryn Flynn

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*Civic-minded people who encounter what they believe to be corrupt and illegal conduct in the workplace may take it upon themselves to release relevant confidential information. This is done either through an open disclosure, where the identity of the whistleblower is publicly known, or an unauthorised disclosure where the identity of the leaker is not revealed. This information is typically leaked to journalists or activists who may be able to seek redress. Leaking is an alternative to whistleblowing and carries fewer risks of reprisals but leakers need to be alert to pitfalls with this practice.*

#### Introduction

In a democracy people need access to information on political, social and economic issues in order to judge whether their elected officials are acting in the public interest. However, too often their elected officials evade such scrutiny, and fraud and abuse go unchecked.

Most people with access to relevant information are deterred from leaking or whistleblowing due to legislative prohibitions. They may be those embodied in official secrets acts or the case of the United States the Espionage Act (1917). The Official Secrets Act covers legislation providing for the protection of state secrets and official information and is used in the United Kingdom, India, Ireland and Malaysia.

Australia does not have an Official Secrets Act but has provisions under Part VII of the Crimes Act (1914) restricting Commonwealth public servants from revealing confidential information. The U.S. Espionage Act has a more limited application. This Act only applies to the prohibition on the disclosure of government information on defence issues. While governments have aimed to keep official secrets confidential public servants with access to this material have been

successful in releasing it to the public either through the press or in recent times passing it to WikiLeaks, a website for newsworthy leaks.

To draw a distinction between whistleblowing and leaking, whistleblowers are overt in their disclosure of organisational deviance, but there is a price. Bureaucracies now know where their opposition is coming from, and can isolate the whistleblowers by discrediting them, not giving them access to further information and suspending them from work. Generally leakers don't suffer these reprisals.

The definition of leaking is blurred; it can mean an unauthorised source giving information to a journalist but it can also involve an authorised source with political power and high status using the media to their advantage with little likelihood of being prosecuted (Tiffen 1989: 97). In both instances leakers are covert in their disclosure of information. The leakers discussed in this article are workers in the public sector who, without authorisation, convey official information to recipients outside of government (Standing Committee: 67). It is usually released to the media in the public interest and these leakers lack positions of high status and power. The information they provide journalists has not been processed by official channels and there is an undertaking by the journalist that the identity of the source will not be revealed. This practice provides some measure of protection to the leaker.

Journalists are the usual recipients of leaked information but on occasion information is leaked to activists who can act as a spur to additional media coverage of the story (Martin 2009: 206–216). There can be a range of motives for leaking, not all of them altruistic. Some leaks are vexatious in nature and not in the public interest. The protection for journalists lies in checking the information with many sources and gauging their reliability (Flynn 2006: 264–265).

The examples of leaking discussed in this paper are mainly Australian ones but the issue is applicable to many other countries. Leaks can come from a range of organisations: gov-

ernments, not-for-profit groups, corporations, environmental groups, trade unions as well as churches. This paper also mainly focuses on leaks from governments.

Not surprisingly governments and unions will not protect leakers if they are caught even when they are acting in the public interest. But there are divergent meanings of the phrase "the public interest." Journalists and leakers define it as information that brings accountability and transparency to government and exposes maladministration or corruption. Governments argue that they are the interpreters of the public interest and that public servants are bound by rules of confidentiality and are not free to speak out on malfeasance. As Peter Shergold, Secretary of the Department of Prime Minister and Cabinet in the Australian government led by John Howard explained, leaking by public servants is "not just a criminal offence but also democratic sabotage" (Shergold 2004).



Peter Shergold

Supporting this view, the then National Secretary of the Community and Public Sector Union, Stephen Jones, giving evidence to the House of Representatives Standing Committee on Legal and Constitutional Affairs in its report on whistleblowing protection, held that leaking should not be protected due to its harmful impact on the relationship between the executive and the public service. Presenting a different perspective to this committee was Peter Bennett, president of Whistleblowers Australia. He argued that the official responses to people who leak

confidential information are outrageous and that leakers should be protected from civil and criminal liability (Standing Committee 2009: 67).

### The practice of leaking

For a public servant who sees evidence of what they perceive is an organisation's corrupt practice and believes that neither management nor parliament will do anything about the problem, one of the difficulties is deciding what to do next. They may be influenced by the rhetoric of senior bureaucrats who assert that leaking undermines the trust between the executive and the public service. This might seem a compelling argument except it hides the need for information to be freely available so there is effective decision-making.

- If a leaker decides to speak to a journalist, they must first decide which media outlet is most suitable for publicising the story, whether it is a national or local outlet and what the outlet's editorial policy on the issue is. In selecting a reporter it is recommended to approach one who is experienced and has a reputation for maintaining confidentiality.
- Leakers need to understand the importance of the timing of the release of documents.
- A leaker needs to be armed with documents in order to be believed by a journalist, unless he or she is an experienced and reliable source.
- In addition knowledgeable leakers advise briefing the journalist with a clear and compelling one-page summary of the key issues of the case.
- The biggest problem with passing documents across to the media is that photocopiers tend to leave a signature on the copied document, which could be dust or the electronic idiosyncrasies of the machine. So it is best to use a photocopier in an offsite facility, for example, in a newsagency, library or internet cafe. When the journalist receives the document request him or her to re-photocopy the document and shred the document they had received (which is not the original). It is best to avoid

using departmental photocopiers, fax machines, computers, email or telephones (The Art of Anonymous Activism 2002).

- The print media are preferable to television as print is better able to ensure the leaker's anonymity. Television productions quite often need shadow outs or use distorted voice – and the original voice sometimes can be reconstructed. Television and radio will often do stories inspired by a print story.
- Some leakers, including WikiLeaks founder Julian Assange, believe that leaking is best undertaken by one person working alone who maintains confidentiality. Again others derive safety from working in a group, with information being streamed through a designated spokesperson. In this way the journalist knows the identity of only one of the leakers. Others believe that with group involvement the security of the operation is compromised as someone in the group may drop their guard and talk openly about the leaked information.
- Leaking is unpopular with managers for it is embarrassing and can highlight workplace incompetence, inefficiency and secrecy. The leaker is left in a strong position as his or her identity is hard to uncover and they may be able to stay in the job and later leak further information.
- Reactions by staff members to leaks can be to find the source of the leak and pass further additional information to this source so it gets into the public arena.
- If leakers are caught it can result in the same reprisals that whistleblowers are subject to, including harassment, demotion or dismissal. To find a leaker, managers may resort to targeting innocent people and attributing them with the leak. This can have the desired effect of making the leaker come forward with an admission of guilt.
- There are risks in leaking. The identity of the leaker may be disclosed during the course of a parliamentary inquiry or by accidental disclosure, for example when a

document is passed to a journalist by fax machine.

- On the positive side leaking can influence government policy because it can result in some aspects of public policy being examined more thoroughly than they would in an environment where policy is not subject to such scrutiny (Flynn 2006).
- Further information on leaking can be found in Nicky Hager and Bob Burton's 1999 book *Secrets and Lies*, a booklet *The Art of Anonymous Activism* (Project on Government Oversight, 2002) and Julian Assange's article *How a Whistleblower Should Leak Information* (Assange 2010).



Nicky Hager

### Case study: Medibank

There are many instances where principled public servants have come forward to disclose waste and fraud. One that I am familiar with concerns Medibank — the precursor to Medicare — where whistleblowers and leakers disclosed information to the media, and the Joint Committee of Public Accounts (JCPA) of fraud and abuse against Medibank.

Medibank was a system of publicly funded universal health care introduced in Australia in 1975. It enjoyed great electoral popularity but there was a defect with the scheme. It had no legislative architecture to control fraud and overservicing, and with few systems in place and inadequate staffing, the Department of Health was left to manage the situation as best it could. Whistleblowers and leakers played a major role in exposing fraud and abuse (Flynn 2004).

Medibank's first fraud investigator and first whistleblower was Joe Shaw. In 1978 he estimated \$100m was being lost annually to fraud and overservicing and wrote a report outlining his concerns. He was not listened to and he resigned. Some months later, he gave his report to a journalist working for Brisbane's *Courier Mail* newspaper, who wrote an article published on the front page. Two days later Senator Mal Colston asked that Shaw's report be tabled in parliament. This request was refused. Four years later, committee members of the JCPA recognised the value of Shaw's report. This made it more difficult for senior management in the Department of Health to deny knowledge of the problem.



John Deeble, architect of Medibank

The second whistleblower was John Kelly, Director of the Operations Branch of the Commonwealth Department of Health. He had been asked by a senior officer of the Department of Health to provide a departmental briefing for the Minister. Kelly's estimate of the amount lost through leakage to the system was the same as Joe Shaw's estimate. Kelly was aware that this information was likely to be deleted by senior management, so using a strategy that was procedurally correct; he hid the estimate in a complicated statistical appendix in an attachment to the brief to the Minister. A senior officer in the Department of Health reading Kelly's report did not grasp the significance of the statistical data and the report was forwarded to the Minister. This figure was then sent to the Australian Medical Association (AMA) who accepted the figure as the amount lost through fraud and overservicing.

The actions of whistleblowers, leakers, the media, the AMA and the

Auditor-General's office in 1981 led the JCPA to undertake an inquiry into abuse of the Medical Benefits Schedule by medical practitioners. A freelance journalist, Katherine Beauchamp, was employed by the JCPA from February to September 1982 to prepare questions for the committee. She interviewed whistleblowers, unauthorised confidential sources and high-ranking officials. However, her use of material from leakers raised the ire of the Committee and she was suspended from her employment.



Richard Scotton, architect of Medibank

The Chairman of the Committee, David Connolly, had received leaked information that either the Victorian division of the Commonwealth Department of Health, or individual staff members of that office, had facilitated criminal fraud by some doctors (JCPA Report 203, 1982: 48). Connolly subpoenaed forty-one files from the Commonwealth Department of Health's Melbourne office relating to this matter. On the first day of the Committee's hearings it was announced that there would be no discussion of the forty-one files (JCPA vol. 1, 1 July 1982: 303) because citing the names of doctors could prejudice police investigation of the trials of those mentioned in the files.

A confidential unauthorised source leaked the police report of the files to Michael Smith, an investigative journalist with Melbourne's *The Age* newspaper, who wrote the story under the headline "Medifraud Cover-Up Suspected." On 13 September 1982 there were further revelations. The story "Medifraud: A Tale of Political Failure" was compiled from leaked government documents and other sources and helped put pressure on the government to complete an interim

report earlier than expected. Its publication in December 1982 contained 45 recommendations and validated the stance taken by whistleblowers and leakers for government action on medical fraud and overservicing.



Gwyn Howells, Director-General of Health 1973-1982

In this case study the leaker/s were successful in passing information to the media in ways that protected their anonymity. No one involved was caught, discredited or suspended from work. They were able to maintain the secrecy of their covert manoeuvre to get information to the media and bypass official channels. The leaker/s took documentary evidence to an experienced journalist who investigated the claims of the leaker/s, collected further evidence and wrote newspaper articles on the topic. The timing of the release of the documents was fortuitous. The editor of the newspaper was interested in white-collar crime, the health debate and exposés of policy failures of the federal government. This was a government already weakened by scandals and leakers, so whistleblowers were emboldened to make disclosures that would be effective (Flynn 2004: 218).

### The bigger picture

Leakers and whistleblowers acted in concert and fought for media and parliamentary oversight of fraud and abuse against Medibank. These acts come under the umbrella of what political theorist John Keane called "monitory democracy." This was a new form of democracy born in the post World War Two period which saw the emergence of communicative technologies – the photocopier, the scanner, the fax machine and later the

Internet, mobile phones and video recorders. It enabled citizens to more effectively monitor the actions of government and with the help of the media tell others about matters that have been covered up (Keane 2009). Peter Shergold's admonition that leaking was "democratic sabotage" is at odds with monitory democracy as the corrective to unnecessary secrecy and unaccountable power.

In spite of inexperience or a lack of professionalism in handling the media, unauthorised leakers have worked to a variety of goals and been successful. For some it is getting information into the public arena. For others it is to expose government policy to wider and more rigorous community debate. Some want to drive a wedge between the executive and the parliament by suggesting to politicians that they are not being well briefed by senior officers of their departments through the omission or cover-up of information. Others are interested in setting in train some form of parliamentary inquiry into organisational malfeasance. For others it is to achieve more substantial social or political reform than any inquiry can achieve.

One influential monitor on democracy was Daniel Ellsberg, an employee of the Rand Corporation and an advisor to the Pentagon in the 1960s. Initially he was a supporter of the war in Vietnam but in the course of his employment he uncovered evidence that the Johnson administration had lied about its involvement in the war. Ellsberg decided to take action. He photocopied the evidence of the government's deception, a hefty 7,000 page set of documents called the Pentagon Papers, and leaked this information to *The New York Times* in 1971 (Ellsberg 2002). There were long legal delays before *The Times* started to publish the documents. The government issued injunctions to prevent publication of any other papers in the series. The matter ended up in the Supreme Court, which ruled against the injunctions; this generated adverse publicity for the government.

When asked whether he would have used this approach today Ellsberg replied that to avoid the legal delays he would now scan the documents and put them on the Internet. WikiLeaks founder Julian Assange argued that for

someone in Ellsberg's position it would be better to go to a mainstream outlet to get maximum publicity but use WikiLeaks for the storage of the documents. This has the advantage, Assange told *The New York Times*, that the material can be verified in the same way that an academic paper can be verified.

### Learning more

Much has changed since the inception of newspaper investigative journalism. In 2006 WikiLeaks was developed as a safe house for newsworthy leaks of political, historic or ethical significance. The site is located on servers in Sweden, Belgium and the United States. It maintains its own servers, keeps no logs and uses military grade encryption to protect sources and other confidential information. To date WikiLeaks has not released a misattributed document.

The website has had significant successes. These include the release of the Afghan war logs, the Iraq war logs and US embassy diplomatic cables. The mainstream media picked up these stories on WikiLeaks and the level of publicity which ensued encouraged other leaking activists to send material to this site. The retaliatory action taken by the US government was to imprison the alleged leaker Bradley Manning.

Most unauthorised leakers do not meet such a fate. In fact they are successful in reaching their goals, which may be to get information via the media into the public arena or to expose government policy to wider and more rigorous community debate. Some want to drive a wedge between the executive and the parliament by setting a doubt in the mind of politicians that they are not being well briefed by senior officers of their departments through the omission or cover-up of information. For others it is to achieve more substantial social or political reform than any parliamentary inquiry can achieve.

Julian Assange has a different agenda and a bolder ambition. He is more interested in societies being based on justice rather than on transparency and openness, although these goals can converge. In essays written in 2006 he explained his position. The goal is to "radically shift regime behaviour." He argued,

We must understand the key generative structure of bad governance ... we must use these insights to inspire within us and others a course of ennobling and effective action to replace the structures that lead to bad governance with something better (Assange 2006).

He likens this bad governance to a conspiracy and by that he means the ability of political elites to hold onto power through the secrecy of their plans and actions which work to the detriment of the population. Conspiracies can be undone by mass leaking. The idea is to increase the porousness of the conspiracy's information system so that the conspiracy will turn against itself in self-defence. As the lines of communication are interrupted the information flow decreases to the point where the conspiracy is not able to govern.

Where this bold ambition leads is yet to be seen but in the meantime leaking, whether it is on WikiLeaks or in mainstream journalism, provides an alternative to whistleblowing or just doing nothing in the face of corruption, fraud, waste, abuse or hazards to the public. Leakers can be effective in redressing these injustices but they need to be mindful of precautions to protect their anonymity.

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## Sing for your supper: why Australia should reward corporate informants

Thomas Faunce  
*The Conversation*  
<http://theconversation.edu.au>  
 7 June 2011

FEDERAL and state governments in Australia appear much less successful than their United States counterparts in recovering taxpayers funds lost to suspected large-scale corporate fraud.

For instance, there are petrol companies in Australia that seem to raise and lower their prices in sync with each other, especially prior to weekends — negatively impacting government departments that fund fuel costs.

The Australian Competition and Consumer Commission (ACCC) waits for whistleblowers to come to it to provide documentary evidence of illegal collusion, but no one does.

Then there are defence contracts for rusty warships, dud helicopters, submarines and aircraft where the possibility of kickbacks to people in high places seems worth investigating — if only we had a better mechanism to encourage insider information.

With all the fuss about a resource rent tax there are inevitable queries about whether the giant corporations mining our iron ore, coal and gold are actually declaring all they pull out of the ground and have to pay royalties upon.

Then, there's the possibility of systematic corporate fraud in relation to the billions of dollars of annual government expenditure — at both State and Federal levels — on medicines and health care.

There is suspicion, for example, that corporations running private hospitals may be systematically billing Medicare improperly.

Recent litigation around the drug Vioxx showed the extent to which the pharmaceutical industry can encourage drug representatives to make misleading statements to improperly encourage prescriptions. This extended to creating "fake" medical journals to promote their products.

So, what, if anything, can be done about this and what lessons can the United States give us in dealing with large scale corporate fraud on taxpayers?

### US anti-fraud laws: letting informants sue via no-win no-fee lawyers

The so-called "Qui Tam" provisions in the US False Claims Act 1986 (FCA) create a private-public enforcement partnership that drives the highly successful American anti-fraud regime.

The name Qui Tam is an abbreviation of a Latin legal maxim roughly meaning "he who sues on behalf of

himself also sues on behalf of the state."



The laws allow private citizens (called "relators" under the legislation) the right to provide documents establishing fraud to a no-win-no-fee lawyer.

This may lead to the initiation of a lawsuit under seal, that is, a lawsuit that is not initially disclosed to the defendant.

This is very different from the situation in Australia where governments expect informants to come to regulators without the promise of reward despite the emotional distress and job insecurity they will inevitably experience.

In the US, a provider of information critical to a successful anti-fraud case is compensated for efforts in the public interest with a small percentage of whatever proceeds (including triple damages) the government recovers from the civil suit.

The US model has private-practice-law firms work synergistically with federal or state justice department officials.

The relator and his/her counsel contribute valuable manpower and financial resources to the government action.

This is a highly successful model that has not been applied in Australia.

Instead, in Australia regulators sometimes take details of fraud from private firms who have been contacted by informants and leave both the firm and informant without financial compensation for their efforts.

For the informant, this can result in intimidation, loss of livelihood, friends, family and stress.

The US False Claims enforcement partnership has proven extremely cost-effective, recouping \$15 for every dollar spent on Qui Tam investigations and litigation.

Qui Tam laws act as potent deterrents for fraudulent activities as they amplify the threat of detection and prosecution.

They also create incentives for compliance with government requirements and conditions.

Frivolous or “parasitic” Qui Tam claims are prevented by statutory bars on individuals who have made no material contribution to uncovering the fraud or providing the factual basis of the case.

A relator cannot base a Qui Tam action on publicly disclosed allegations, unless the relator is the original source of that information.

### Compensating anti-fraud informants in Australia

The time is right to get Qui Tam, False Claims Act-type legislation into Australia.

Over the past 20 years, anti-competitive behaviour has increasingly been regarded as a serious crime by Australian regulators.

No-win-no-fee advertising from law firms is common and litigation funding companies are permitted to back public interest class actions.

What’s more, the Australian High Court now supports the right of any person to bring an action, not to vindicate a private right, but to prevent the violation of a public right or to enforce the performance of a public duty.

Litigation funding companies in Australia already accept the risk of paying the other side’s costs if a case fails, in return for a set share of the proceeds if it succeeds.

These arrangements have withstood challenges in Australian courts, in part due to the fact that they fulfil public policy imperatives such as access to justice, particularly in public health-related class actions.

Treble damages have been considered previously as a deterrent for insider trading and regulators, in general, are in favour of them.

The key strengths of allowing informants of corporate fraud in Australia to sue via private legal firms

operating in conjunction with government regulators include:

- the large amounts of public monies recovered;
- the encouragement it provides for good corporate practice;
- the incentives it provides to informants from within the private sector;
- the compensations it fairly affords such informants; and
- various mechanisms that ensure only presumptively meritorious claims are processed.

If designed carefully, Australian Qui Tam anti-fraud laws could provide a mechanism for sustained and diligent oversight of claims by the pharmaceutical, medical device and health care industries on the public purse without significantly impeding their growth.

Australian Qui Tam or False Claims legislation could also play a significant role in reducing fraud and false claims in relation to other large investments or redistributions of public monies in public health-related fields, such as a carbon tax or carbon credit trading scheme.

The debate about whistleblowers in Australia has to move on from laws protecting them against unfair reprisals, towards laws allowing fair financial compensation for the personal loss and distress caused by their public service.



Thomas Faunce is an ARC Future Fellow at Australian National University. This piece is based on an article published in the *Medical Journal of Australia* in May 2011.

## Scholars deserve right to be heard

Stephen Matchett

*The Australian*, 8 June 2011, p. 38

It is easy to dismiss threats against climate change scientists as the work of cranks, desperate for attention and who should accordingly be ignored.

Easy but wrong.

Attempts to intimidate academics over their research are more than attacks against individuals; they are an assault on our democracy, which will inevitably atrophy when people are too frightened to speak. Debate conducted within the bounds of community norms is sacrosanct and this especially applies to academics who are not reporting what they feel but what they conclude on the basis of analysing the evidence.

It does not matter how controversial their work, it does not matter how passionately advocates and opponents hold their positions. It does not matter if one scholarly position turns out to be wrong and another right years down the track. If any academics — across the scholarly spectrum — are silenced debate dies and we lose new ideas.



Stephen Matchett

Any society that ignores threats against researchers reporting what the evidence demonstrates to them in one field will soon find attacks on other issues. Once the books are burned, the camps open for business.

Perhaps the present threats come from individuals who genuinely believe that climate change is a fraud. I don’t care. Just as I don’t care what the motivation is of the green zealots.

People will never be able to make up their minds if this, or any debate, is drowned out by shouting or, even worse, if scholars are intimidated into staying silent. So good on Universities Australia chairman Glyn Davis for calling for community and political leaders to speak out in support of free

scholarly speech. And good on Universities Australia's chief executive Glenn Withers for making the same case.

They set an example in speaking out in defence of independent scholarship, one that should not need to be offered. But it seems it is.

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## Russia's chief whistleblower wants to jail the corrupt

Miriam Elder

*The Guardian*, 23 February 2011

ALEXEY Navalny leaps out of his chair and draws five black circles on a whiteboard. The circles represent players in Russia's multibillion-dollar oil industry. With boundless energy and lightning speed, he draws lines and connects the dots, telling the story of what he calls classic Russian corruption.

In Russia, this is not done — at least not publicly. Navalny is speaking in a country that has seen its greatest government critics jailed, exiled and killed. But the 34-year-old lawyer, smart, self-confident and apparently fearless, has made a career of going after Russia's untouchables. As Russia's chief whistleblower — a one-man WikiLeaks — he has focused in the past three years on using the law to obtain information from the infamously secretive state-run corporations that fuel the country's economy and line the pockets of its highest officials.

"Everyone says corruption is everywhere, but for me it seems strange to say that and then not try to put the people guilty of that corruption away," Navalny said during an interview at his central Moscow office, adorned with little but stacks of papers and a gleaming silver MacBook.



Alexey Navalny

For now, that is not his goal. Instead, he has focused on exposing the insidious corruption that even Russia's leaders acknowledge is the country's biggest problem.

Navalny normally uses documents already available on government websites. As his reputation as a whistleblower has grown, so has his access. In November, he published a leaked Audit Chamber report that found Transneft, the state pipeline monopoly, had siphoned off \$4bn from the construction of a pipeline linking Russia to Asian markets. It was his greatest coup.



Most recently, Navalny has won lawsuits against Transneft and Rosneft, forcing them to provide minority shareholders with access to company documents, including the minutes from board meetings. In May, he won a court ruling forcing police to investigate exactly who had benefited from Transneft's enormous charitable donations from 2006-07, which amounted to 15bn roubles (£317m).

"This is a huge sum even by global standards, and for Russia it's unprecedented. But no one knows what they spent it on," he said.

Navalny's latest project is RosPil, a website that uses hundreds of volunteers to comb through public documents on state tenders, a prime area of state corruption. He came up with the idea in October, after his exposure of a corrupt government tender led to its cancellation and the resignation of the state official charged with overseeing it. Just two weeks after launching the site, Navalny collected 4 million roubles (£84,000), a record sum in Russia.

"It's become more fashionable to be in the opposition, because everyone sees that the country is going to hell," Navalny said. "The powers themselves understand that and know it could all

end at any moment, so it's best to steal as fast as you can."

Navalny believes little will change until the Vladimir Putin regime falls. "Change cannot come about under this leadership. These people will never deny themselves billions of dollars. Sooner or later something will change and these documents we gather will be used so they will all be put in jail."

Although angry when talking about the regime, his campaign grew from selfish motives. After a law degree in 1998 and working as a lawyer in a property development firm owned by Shalva Chigirinsky, the now disgraced oligarch, Navalny began dabbling in the stock market. "I invested some of my money in blue chips and rather quickly realised they were paying no dividends," he said. "At the same time, you could look at the Forbes rich list and easily understand where the dividends were going."

He took a master's degree in finance and joined Yabloko, Russia's leading post-Soviet democratic opposition party, in 2000, unhappy with the rise of Vladimir Putin and what he feared would be a return to authoritarianism. Navalny helped to organise protests and led election campaigns in Moscow, but several years later fell out with the party over his conservative, indeed nationalist, political views. The party had no room, he said, for concerns about illegal immigration and the plight of ethnic Russians. "Liberals in Russia will never come to power, not because of censorship or falsified elections, but because they don't discuss real problems."

A poll conducted in October by Kommersant, Russia's leading newspaper, found that if elections were held for the mayoralty of Moscow, Navalny would win an undisputed victory, with 45%. Opposition politician Boris Nemtsov and the current mayor, Sergei Sobyenin, lagged far behind with 12% and 2.8% of the 50,000 polled.

Many wonder how long his popularity can continue to grow.

"There's a history of the Russian authorities coming up with trumped-up criminal cases as well as physical attacks on people who expose corruption," said William Browder, once Russia's leading portfolio investor and minority shareholder activist. Browder was denied entry to the country five



years ago on the grounds that he posed a threat to national security. His lawyer, Sergei Magnitsky, died in a Russian jail in 2009 after being refused medical treatment. “It’s obviously very worrying what they might do to Alexey.”

His Russian supporters agree. “We all worry about everyone who goes out front,” said Elena Panfilova of Transparency International, which ranked Russia 154 out of 178 countries on its corruption index, well below any other Group of 20 nation. “The danger comes up when you go after somebody concrete, when you point a finger and name names.”

Navalny is already facing legal threats. In his usual outspoken style, he called the ruling party, United Russia, “a party of cheats and thieves” during a radio interview last week. Unnamed members of the party have hired a lawyer and are planning to sue. United Russia declined to comment on the claims.

But Navalny says he has no fear. “Any person who undertakes independent action in Russia — in journalism, business, anything — takes on risk,” he said. “I can understand they can do whatever they want, but that won’t stop me.”

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## Honoring those who said no

Jameel Jaffer and Larry Siems  
*New York Times*  
28 April 2011, p. A25

IN JANUARY 2004, Spec. Joseph M. Darby, a 24-year-old Army reservist in Iraq, discovered a set of photographs showing other members of his company torturing prisoners at the Abu Ghraib prison. The discovery anguished him, and he struggled over how to respond. “I had the choice between what I knew was morally right, and my loyalty to other soldiers,” he recalled later. “I couldn’t have it both ways.”

So he copied the photographs onto a CD, sealed it in an envelope, and delivered the envelope and an anonymous letter to the Army’s Criminal Investigation Command. Three months later — seven years ago today — the photographs were published. Specialist

Darby soon found himself the target of death threats, but he had no regrets. Testifying at a pretrial hearing for a fellow soldier, he said that the abuse “violated everything I personally believed in and all I’d been taught about the rules of war.”



Joseph Darby

He was not alone. Throughout the military, and throughout the government, brave men and women reported abuse, challenged interrogation directives that permitted abuse, and refused to participate in an interrogation and detention program that they believed to be unwise, unlawful and immoral. The Bush administration’s most senior officials expressly approved the torture of prisoners, but there was dissent in every agency, and at every level.

There are many things the Obama administration could do to repair some of the damage done by the last administration, but among the simplest and most urgent is this: It could recognize and honor the public servants who rejected torture.

In the thousands of pages that have been made public about the detention and interrogation program, we hear the voices of the prisoners who were tortured and the voices of those who inflicted their suffering. But we also hear the voices of the many Americans who said no.

Some of these voices belong to people whose names have been redacted from the public record. In Afghanistan, soldiers and contractors recoiled at interrogation techniques they witnessed. After seeing a prisoner beaten by a mysterious special forces team, one interpreter filed an official complaint. “I was very upset that such a thing could happen,” she wrote. “I

take my responsibilities as an interrogator and as a human being very seriously.”

Similarly, after Defense Secretary Donald H. Rumsfeld told interrogators that they could hold Guantánamo prisoners in “stress positions,” barrage them with strobe lights and loud music, and hold them in freezing-cold cells, FBI agents at the naval base refused to participate in the interrogations and complained to FBI headquarters.

But some of the names we know. When Alberto J. Mora, the Navy’s general counsel, learned of the interrogation directive that Mr. Rumsfeld issued at Guantánamo, he campaigned to have it revoked, arguing that it was “unlawful and unworthy of the military services.” Guantánamo prosecutors resigned rather than present cases founded on coerced evidence. One, Lt. Col. Stuart Couch of the Marines, said the abuse violated basic religious precepts of human dignity. Another, Lt. Col. Darrel J. Vandeveld of the Army, filed an affidavit in support of the child prisoner he had been assigned to prosecute.



Alberto Mora

There were dissenters even within the CIA. Early in 2003, the agency’s inspector general, John L. Helgerson, began an investigation after agents in the field expressed concern that the agency’s secret-site interrogations “might involve violations of human rights.” Mr. Helgerson, a 30-year agency veteran, was himself a kind of dissenter: in 2004 he sent the agency a meticulously researched report documenting some of the abuses that had

taken place in CIA-run prisons, questioning the wisdom and legality of the policies that had led to those abuses, and characterizing some of the agency's activities as inhumane. Without his investigation and report, the torture program might still be operating today.

Thus far, though, our official history has honored only those who approved torture, not those who rejected it. In December 2004, as the leadership of the CIA was debating whether to destroy videotapes of prisoners being waterboarded in the agency's secret prisons, President Bush bestowed the nation's highest civilian honor, the Presidential Medal of Freedom, on George J. Tenet, the former CIA director who had signed off on the torture sessions. In 2006, the Army major general who oversaw the torture of prisoners at Guantánamo was given the Distinguished Service Medal. One of the lawyers responsible for the Bush administration's "torture memos" received awards from the Justice Department, the Defense Department and the National Security Agency.

President Obama has disavowed torture, but he has been unenthusiastic about examining the last administration's interrogation policies. He has said the country should look to the future rather than the past. But averting our eyes from recent history means not only that we fail in our legal and moral duty to provide redress to victims of torture, but also that we betray the public servants who risked so much to reverse what they knew was a disastrous and shameful course.

Those who stayed true to our values and stood up against cruelty are worthy of a wide range of civilian and military commendations, up to and including the Presidential Medal of Freedom. Honoring them is a way of encouraging the best in our public servants, now and in the future. It is also a way of honoring the best in ourselves.

Jameel Jaffer is a deputy legal director at the American Civil Liberties Union. Larry Siems is the director of the Freedom to Write program at the PEN American Center.

## Canada watches its democracy erode

**Government duplicity has gone unchecked**

Ramesh Thakur

*The Australian*, 30 March 2011, p. 8

ON Friday, the minority Stephen Harper government fell on a confidence motion by a 156-145 vote. Speaking to the motion, Opposition Leader Michael Ignatieff attacked the government for disrespecting Canadian democracy and treating parliament with contempt.

The myth of Canada being dull is captured in the apocryphal story that in an international competition for the most boring news headline of the year, the winning entry was "Yet another worthy Canadian initiative."

Edmund Burke noted that all that was necessary for evil to triumph was for good men to do nothing. Canadians are certainly good and worthy folks, but they suffer an excess of civil obedience, politeness and lack of civic rage that could be harnessed to combat political atrophy. At a time when Arabs risk life and limb for political freedoms, Canadians seem largely apathetic about the erosion of their democracy.

The centralisation of power in the hands of the prime minister and political staffers — with the resulting diminution of the role and status of cabinet, parliaments and parliamentarians — is common to Anglo-Saxon democracies in Australia, Britain, Canada and the US, but the extent to which constitutional conventions, parliamentary etiquette and civil institutions of good governance have been worn away in Canada is cause for concern.

A minister told parliament she did not know who had altered a document that cut funding to a foreign aid group. Later, she admitted to ordering the changes, but did not know who had carried out the order. Lying to parliament, a cardinal sin of Westminster-style democracy, has become a political tactic.

Following rulings by Speaker Peter Milliken, for the first time in Canadian history, the government and a minister have been found to be in contempt of

parliament for withholding information and misleading the house.

The Integrity Commissioner was so inept that she failed to uphold a single one of more than 200 whistle-blowing complaints.

Forced out of office by the ensuing public outcry, she was awarded a \$C500,000 severance package on condition that neither she nor the government talk about it.

That is, a public servant paid by the taxpayer was financially gagged by yet more taxpayer money to stop taxpayers finding out what was going on.

When a foreign service officer blew the whistle on the Canadian military handing over detainees to Afghan security forces, in likely violation of international humanitarian law, the government tried to destroy him and refused to give documents to a parliamentary inquiry. The Speaker reminded the government parliament controlled cabinet, not the other way round.

After the last elections, when the opposition parties were close to agreement on a coalition majority government, rather than face the house in a vote of confidence, Harper talked the governor-general into shuttering parliament for a month until he shored up his own support.

When the time came to choose a new governor-general, Harper opted for someone who had carefully drawn up the terms of an inquiry commission to exclude the potentially most damaging aspects of a scandal involving a former conservative prime minister.



Ramesh Thakur

Four conservatives have been charged with exceeding campaign spending limits in the 2006 election that put Harper into power. A minister used public office and material to pursue party-political goals of courting ethnic vote banks for the conservatives.

Having come into office on campaign promises of greater transparency and accountability, Harper has silenced civil servants and diplomats, cynically published guidelines on how to disrupt hostile parliamentary committees, and suppressed research that contradicts ideologically-driven policy, for example data that show crime rates to be falling.

Judges who rule against the pet causes of the government's ideological base are not immune to attacks from cabinet ministers.

Civil society groups that criticise any government policy or ideology risk loss of funding and hostile takeovers by boards stacked with pro-government ciphers.

Little wonder *Globe and Mail* columnist Lawrence Martin describes the government's "arc of duplicity" as "remarkable to behold." What remains unclear is whether this adds up to an indictment of Canadians' indifference to democratic rights being curtailed or of the opposition parties, which have failed to harness the silent majority's outrage.

As Canadians head for the polls in early May, it remains to be seen whether Liberal Party charges of the Harper government being obsessed with secrecy, control, spin and attack ads will resonate with voters. Until then, Oh Canada, we cry our hearts for thee. [At the election, the ruling Conservative Party, led by Stephen Harper, increased its numbers. — *ed.*]

Ramesh Thakur is professor of political science at the University of Waterloo and adjunct professor, Institute of Governance, Ethics and Law, Griffith University

## Of the people and for the people

**We shouldn't be surprised by the war on WikiLeaks. The elite have always loathed the radical press, from English civil war news books to early American labour newspapers.**

Julian Assange

*New Statesman*, 11 April 2011

ONCE, at the time of a major popular upheaval, elites on different sides of the political divide feared the general population more than each other. The rising merchant classes may have opposed the more traditional, aristocratic nobility, but both sides feared the radical publishers who were stirring up the people past a point of no return. As one writer put it:

They have cast all the Mysteries and secrets of Government, both by Kings and Parliaments, before the vulgar (like Pearl before Swine), and have taught both the Souldiery and People to look so far into them as to ravel back all Governments, to the first principles of nature. They have made the People thereby so curious and so arrogant that they will never find humility enough to submit to a civil rule.

Although these words could easily describe the situation today in Tunisia, Egypt and elsewhere in the Middle East, they were in fact written in 1661, by a man called Clement Walker, about popular radicalism at the time of the English civil war in the 1640s.

This was a crucial time in the history of publishing — and the history of governments' attempts to control what the people could read. Printing presses, invented two centuries earlier, were becoming more accessible, and the first newspapers were appearing throughout western Europe as a result of the creation of a postal system. Today's maxim, "technology drives distribution," has long antecedents.

During the civil war, the established printers and booksellers were not the only ones who published newspapers: craftsmen from less exalted trades published their own. For four years in the 1640s, a tailor named John Dillingham published the *Moderate*

*Intelligencer*, reporting on developments in the civil war. (His attempt to report soberly on the conflict soon brought him into conflict with Gilbert Mabbot, official licenser of the press, who tried to replace the *Intelligencer* with something more overtly supportive of Oliver Cromwell.)



Pamphlets, manuscripts and other smaller newsletters also appeared regularly, all reflecting the concerns of their authors. Little wonder that there was such concern among the elite that the people were becoming, as Walker put it, "so curious and so arrogant that they will never find humility enough to submit."

Today, as a small organisation, WikiLeaks is firmly in the tradition of those radical publishers who tried to lay "all the Mysteries and secrets of Government" before the public. For reasons of realpolitik, we have worked with some of the largest media groups, but we have also broadened our base to more than 50 regional publishers, activist groups and charities, giving them early access to hundreds — or, in some cases, thousands — of documents relevant to their countries or causes.

WikiLeaks also remains true to the ideals of the popular newspapers that flourished in the US at the beginning of the 20th century.

In *Ruthless Criticism*, a well-regarded dissection of the US fourth estate, the historian Jon Bekken finds that there were once "hundreds of newspapers in dozens of languages, ranging from local and regional dailies issued by working-class political

organisations and mutual aid societies to national union weeklies and monthlies.”

These newspapers not only reported the news but also offered, as Bekken puts it, “a venue where readers could debate political, economic and cultural issues. Readers could follow the activities of working-class institutions in every field and could be mobilised to support efforts to transform economic and political conditions.”

While the blogosphere is now rightly seen as reflecting the diversity of popular concerns, the idea of a truly representative media goes back to these labour traditions. For example, in 1920, a number of editors in the United States established the Federated Press, a co-operative news-gathering service that sought to counter the biases of the mainstream press. The service ran until the 1940s, supplying roughly 150 publications.

The labour movement’s own press was, in its time, extremely popular; even before the First World War, its newspapers enjoyed a circulation of more than two million copies in the US. The *Appeal to Reason*, the largest left-wing journal, enjoyed a weekly circulation of three-quarters of a million.



Eugene Debs

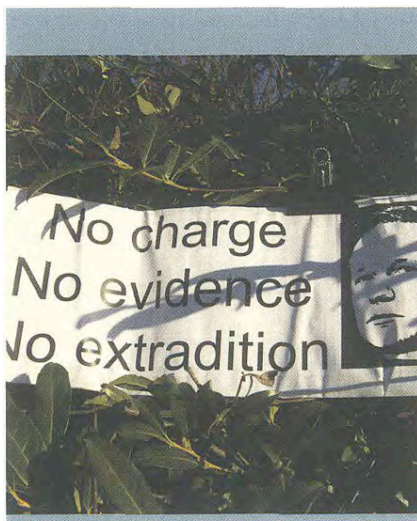
But as conflict in Europe grew closer, there were co-ordinated attempts by the establishment to bring these publications to heel; in the US, the Espionage Act of 1917 made it an offence to argue peacefully against the war effort. One early victim was Eugene Debs, the American Socialist Party and

labour leader, who was convicted in 1918 of making a pacifist speech and sentenced to ten years in prison.

The *New York Times*, true to form, had been calling for his imprisonment for more than two decades, saying in an editorial of 9 July 1894 that Debs was “a lawbreaker at large, an enemy of the human race. There has been quite enough talk about warrants against him and about arresting him.”

The paper added: “It is time to cease mouthings and begin. Debs should be jailed, if there are jails in his neighborhood, and the disorder his bad teaching has engendered must be squelched ... it is well to remember that no friends of the Government of the United States are ever killed by its soldiers — only its enemies.”

Seen within this historical perspective, the *New York Times*’s performance in the run-up to the US-led invasion of Iraq, and its hostile attitude to WikiLeaks today, are not surprising.



Appeal to reason: support for the WikiLeaks founder

As well as the hostility of governments, popular grass-roots publishers have had to face the realities of advertising as a source of revenue. According to the analyst James Curran, the *Daily Herald*, a British newspaper of the early 20th century, had nearly twice the readership of the *Times*, the *Financial Times* and the *Guardian* combined. It was forced to close in 1964, however, despite being among the 20 largest-circulation dailies in the world, because its largely working-class readers did not constitute a lucrative advertising market.

The liberal *News Chronicle* was another casualty of advertising shortfalls, closing in 1960 — when it was absorbed into the right-wing *Daily Mail* — despite having a circulation more than six times larger than the *Guardian*’s.

Of course, WikiLeaks does not have this reliance on advertisers. Rather, we face a different financial problem as a publication: how do we deal with an extrajudicial financial blockade by Bank of America, Visa (including Visa Europe, registered in London), MasterCard, PayPal, Western Union, the Swiss Post-Finance, Moneybookers and other finance companies, all keen to curry favour with Washington?

In the long view of history, WikiLeaks is part of an honourable tradition that expands the scope of freedom by trying to lay “all the mysteries and secrets of government” before the public. We are, in a sense, a pure expression of what the media should be: an intelligence agency of the people, casting pearls before swine.

Julian Assange is editor-in-chief of WikiLeaks.

## This house believes whistleblowers make the world a safer place

*New Statesman*, 10 April 2011

THERE were some laughs. There was some heckling. There was a man blowing an actual whistle.

Yesterday’s *New Statesman*/Frontline debate offered 900 people — including droves of photographers and camera crews — the chance to hear Julian Assange and others debate the motion: “This house believes that whistleblowers make the world a safer place.”



Julian Assange at the debate

Assange, tall and sleek in a navy suit, took to the stage in a blizzard of camera flashes, reminding the audience that the fascination with this controversial figure is far from dying down. He sat between the two other proponents of the motion, Clayton Swisher of the al-Jazeera transparency unit and Mehdi Hasan of the *New Statesman*.

On the right sat their opponents: Sir David Richmond, former director of defence and intelligence at the British Foreign and Commonwealth Office, Bob Ayers, former director of the US department of defence Information Systems Security Programme, and the author and commentator Douglas Murray. (The exclusively male line-up on the panel prompted a shout from the floor: “Where are the women?”)

The *New Statesman* editor, Jason Cowley, introduced the debate and set out the rules: each speaker had seven minutes to make his case, during which the other side could offer points of information. A quick show of hands showed that the majority of the audience started in favour of the motion, so the opposition clearly had its work cut out.



Clayton Swisher

Swisher was up first: in a low-key performance, he spoke of a “culture of collusion between mainstream media and government,” which he said compromised the role of holding power to account. He argued that governments have perfected the art of anonymous speech — with leaks when it suits them — reminding the audience of the “senior officials” keen to tell newspapers about the “evidence” for Saddam Hussein’s weapons of mass destruction in the lead-up to the Iraq war.

It is vital that journalists mediate leaked information, he said. As Samira Shackle reported him saying on the *NS* live blog: “There needs to be a discus-

sion of the ethics of what to disclose (e.g., names of MI6 agents). There is no point in giving a deluge of data without contextualising it and saying why it matters.”

Swisher got the biggest round of applause when he offered a reason for why Assange’s relationship with the press has been so turbulent. “They’re hitting on him because he got a scoop they didn’t,” he said.

Next up was David Richmond, who opened with: “Blowing the whistle can be justified — but not everyone who leaks can be called a whistleblower.” Our security and defence depends on secrecy, he said. “Freedom of information is not the same as an information free-for-all.” As @saradotdub wrote on Twitter: “Both sides of this debate assume someone gets to decide what we know: whistleblowers or governments.”

Richmond added that intelligence agencies cannot operate if their methods are exposed to public view, prompting Mehdi Hasan to jump up with the first point of information. He asked how intelligence agencies could defend bugging the UN (a revelation from the WikiLeaks embassy cables), even demanding to see records of diplomats’ air miles? Richmond replied that the US state department made “fools of themselves” on that one. He concluded his speech with the words: “If the right balance is not being struck, the democratic way to address this is not whistleblowing.”

It was a convincing performance. As @psmith wrote, he “makes fair points: parliament, courts and media should be more democratic so there is less need for leaks.”

As Richmond sat down, Julian Assange sprang to his feet. Folding his arms at the lectern — his usual speaking stance, according to Assange-watchers — he took the audience through several wars, asking if they could have been prevented by whistleblowers. As the cameras clattered, he went on, asking: how are we going to know if the secrecy process is working or not? The only way we can know if information is legitimately kept secret is to know it.

In a catchy turn of phrase, he spoke of the “original sin of censorship.” Could a leaker have prevented the Vietnam war? If David Kelly had not

just spoken to Andrew Gilligan, but more widely, could the “dodgy dossier” have been exposed in time to prevent the Iraq war? He then argued that whistleblowers prevented an attack on Iran in 2007.

Assange closed his speech by defending the need for anonymous whistleblowing — which is the reason WikiLeaks was set up. Although few whistleblowers face jail, he said, many lose their jobs. “When whistleblowers speak anonymously they can feel proud that they have changed history ... and move on.”

He referred to the plight of Bradley Manning, garlanding the sentence with two “allegeds” (Assange has never confirmed Manning as a source, and says that the WL site is set up in such a way that even he doesn’t know who his leakers are).

Finally, he said, the WikiLeaks cables have had effects that many Britons won’t have heard about — as a result of Cablegate, he claimed, there is a huge anti-corruption movement in India. Of course whistleblowers make the world a safer place, he concluded.

If anyone had feared that interest levels would drop after Julian Assange finished his speech, they were about to be proved wrong. The debate got more heated as the evening progressed.

Bob Ayers, following the WikiLeaks founder, immediately took him to task over the chronology of the Gulf of Tonkin incident he’d outlined in his speech, at which Assange leapt to his feet with a point of information.

Ayers wasn’t giving way, though, sternly telling Assange that he hadn’t interrupted during his speech, and he expected the same “courtesy.” Assange persisted, and Ayers barked: “Sit down!” This didn’t go down very well with the audience; neither did Ayers’s assertion that there were other words for whistleblowers — “rats,” “sneaks,” “snitches” and “traitors.”

Clayton Swisher of al-Jazeera tried to get in another point of information — his was allowed this time. He told Ayers that he’d also previously worked for a government organisation, in which the term “snitch” was used for informants on drug and other criminal cases. Governments liked snitches when it suited them.

Ayers acknowledged this and resumed his speech. The crux of it was

that those in possession of sensitive information swore an oath of secrecy, which should not be broken.

At this point, there was a pause to hear from two whistleblowers — Annie Machon, ex-MI5 agent and partner of David Shayler; and Paul Moore, who spoke out about the over-leveraging of HBoS [a British banking and insurance company] and lost his job in consequence.

Machon spoke first; she was engaging and forthright. She told Ayers that she had never “sworn an oath” of secrecy and that she had been obliged to speak out publicly because there were no internal procedures that allowed wrongdoing to be exposed. “The fourth estate are very easily controlled by the government and the intelligence agencies,” she said, adding: “We need some sort of legal channel to protect whistleblowers.”

Douglas Murray asked to come back on this and showed he wasn’t afraid to make the debate personal, citing Machon’s “9/11 denial” and asserting that she worked at only a “low level” in MI5. He told her: “Being in the secret service means you should keep secrets.”



Annie Machon

Machon was unbowed, getting rapturous applause for saying: “We signed the Official Secrets Act to protect secrets, not crimes.” She added: “I know a lot more than someone who was never on the inside at all.”

Next up was Paul Moore. He kicked off by quoting Dwight D Eisenhower — “never confuse honest dissent with disloyal subversion” — before delivering a passionate (and at times painful to hear) speech on the personal cost of whistleblowing. He was outraged that

there was no whistleblower on the proposition side, and produced his own whistle from his pocket to blow in protest.



Paul Moore

Moore went on to say that transparency leads to a better world, but his own actions had cost him his job and left him seriously depressed. He said that whistleblowers were treated like “lepers” and “toxic waste”; but that if more people had spoken out about the banks’ sharp practices in the run-up to the crunch, the lives of much of the British population would be better.

Before Moore went back to his seat, he read out a birthday card from his daughter, received at the height of the storm over his revelations. In it, she told him he was a good person, and to carry on doing what he was doing. It was a heartfelt moment.

After this, the chairman, Jason Cowley, decided to read out some questions submitted through the *New Statesman* website. The first was to Julian Assange. Cowley asked him whether he was concerned about the “collateral damage” charge against WikiLeaks: the possible harm to informants in Afghanistan, for example.

Assange replied that “WikiLeaks has never got it wrong” and the charge that not enough redacting of the documents took place was “hot air” from the Pentagon. In an assertion that cut little ice with those live-tweeting the event, he advised people to Google “Pentagon” and “blood on its hands” versus “WikiLeaks” and “blood on its hands” and compare the number of hits. As Samira Shackle tweeted, he “seems to think that internet search results are an indicator of guilt.”

After a bit of a to-do over whether Murray should respond to this — he

said he preferred to “keep his powder dry” for his upcoming speech — it was agreed that Mehdi Hasan would deliver the final proposition speech next.

As anyone who’s seen him on Question Time will testify, Hasan can never be accused of being a boring debater. “Technically the best speaker of the night,” is the journalist Patrick Smith’s verdict. “The real star of this debate,” said Nasri Atallah.

“I’ve been to countless debates on fox-hunting and there were no foxes on the panel,” joked Hasan, addressing Paul Moore’s complaint. He continued: “I don’t want to talk about Julian. I want to talk about a man named Joe Darby ... a high-school graduate from small-town Pennsylvania who joined the US army reserves at the age of 19, and was posted to Iraq at the age of 24.”

In 2004, Darby received two CDs of images of prisoner abuse at the US-run Abu Ghraib Prison in Iraq. “To use the lingo of the military, he ratted on his friends,” said Hasan, outlining how Darby lived in fear for his life, sleeping with a pistol under his pillow, moving house and eventually quitting the army.

This was the essence of whistleblowing, said Hasan — principled disclosure for the greater good. Until governments are perfect, we need whistleblowers. He also drew a distinction between spies who take an oath of secrecy and ordinary soldiers who uncover abuse, ending rousingly with a question addressed to Bob Ayers: “I’m here for the whistleblowers and the men who were tortured. Who are you here for?”



Mehdi Hasan

Closing the debate was Douglas Murray, self-described neocon and

Mehdi Hasan's nemesis (they regularly debate each other on a range of issues, including Islam and multiculturalism). Murray cleverly decided that he couldn't match Hasan's passionate invective and opted to start his speech softly. "I agree with Mehdi," he began. "It is perfectly true that democracy can be dishonest and corrupt. It is a deeply flawed system. It is, as Churchill said, the worst system going — except for all the others."



Douglas Murray

Murray's speech grew in intensity from here as he repeatedly asked Assange the question: "Are you sure you know what you're doing?" As Assange itched to answer him back, he continued: "Are you sure you know what you're doing when you release an element of chaos into the Middle East, a region that doesn't need any more conspiracy theories?" He argued that democracies have checks and balances, and elections (one of which threw out the government that went to war over Iraq, he noted).

He raised the idea that whistleblowers have too much power and that their actions have consequences they do not intend. When he mentioned Annie Machon's disclosure that MI6 was considering an assassination attempt on Muammar al-Gaddafi, he asked: "Are you sure it was a good idea for Colonel Gaddafi to know that?"

Assange had had enough, and jumped up again. Murray rebuffed him, saying he was going to ask him a lot of questions, and he would have the time to answer them at the end.

A bit of a stand-off ensued but Jason Cowley eventually persuaded him to sit down by promising Assange that he could speak later.

Murray's next point was whether Assange had any idea what foreign intelligence agencies, hostile to the US, would make of the cables. He

began to say it was all very well for al-Jazeera, which was "implacably hostile to the state of Israel," to release cables showing it in a bad light — and at this point Swisher (who works at al-Jazeera) jumped up.

Murray was still having none of it, cuttingly remarking that Swisher would have his time, and anyway he worked in Qatar, "not exactly an open, democratic government." Now he was really on the offensive (leading several tweeters and bloggers to describe him as the opposition's "attack dog").

"What happens to whistleblowers?" Murray asked. "If Mr Assange is anything to go by, it's a lovely life, you can make a lot of money, you can get a lot of admirers ..."

Mehdi Hasan then became the third on the proposition side to try to raise a point of order, but was also batted aside. It felt a bit like a very polite game of whack-a-mole. Murray ploughed on, asking Assange more questions: why had WikiLeaks not released secrets about Russia? Was it because the FSB (the Russian secret police) actually assassinated journalists?

At this point, Assange stood up, and this time got his point of information. He said that colleagues of his had been assassinated, and would Murray "please do his research before making comments like that." Murray didn't back down, moving on to make reference to the *Guardian's* claim that Assange "didn't care" about Afghan informants who were identified as a result of the release of the war logs.

Assange hit back: "Point of order! We are in the process of suing the *Guardian* ..." After a bit of back and forth about libel laws — Assange said he has campaigned for their reform, but that people should have recourse when allegations are made against them — Murray drawled: "I think I'll take from that that Mr Assange thinks libel law is good when he's using it."

Jason Cowley announced that no more points of order would be allowed: Murray should finish his speech uninterrupted. And so he built to a series of questions: where does WikiLeaks get its funding from? Who works for it? What are its links to the Holocaust denier Israel Shamir? What right does it have to decide what we should know? "Governments are

elected," he declared. "You, Mr Assange, are not. Who guards the guardians? Or, in this case, who guards the *Guardian's* guardians?"

He then addressed Assange directly, referring to his phone call to Ian Hislop of *Private Eye*, saying he had become lost in the "fever swamps of conspiracy."

Assange was allowed time to respond. "Mr Murray has nothing to say about the motion here tonight, if he has resorted, like so many of that type, to personal attacks on me, and my organisation, which are of course unfounded," he said. Assange added that he would reply to the "most interesting" of Murray's questions, which was how WikiLeaks was funded — it was directly supported by the public, who "voted with their wallets every week" with donations.

"That dynamic feedback between us, whistleblowers, and the public, I say, is more responsive than a government structure elected after sourcing money from big business once every four years," he concluded. Murray wanted to know more, asking if he could confirm whether WikiLeaks received money from anyone other than the public.

"You think you're better than our governments," he told Assange. "That's because he is!" shouted a fan from the floor. Murray took this triumphantly, as a sign that the Assangistas are too slavishly devoted to the man rather than the idea.

Assange's PA scurried on stage to drag him back to Norfolk to meet his bail conditions, barely giving Jason Cowley enough time to take another vote. Murray's bombastic speech had clearly done its work, because he seemed to have converted some of the pro side to his cause.

And with that, Assange departed the stage with a rock-star wave, and was gone.



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## Whistleblowers Australia contacts

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### New South Wales

**“Caring & sharing” meetings** We listen to your story, provide feedback and possibly guidance for your next few steps. Held 7.00pm on the 2nd and 4th Tuesday nights of each month, Presbyterian Church (Crypt), 7-A Campbell Street, Balmain 2041

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### Whistle

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## Cowered workers leave in silence

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YET another attractive young executive is making front-page news about bullying and harassment (“Beacon of female equality in court over accusations of bullying,” June 20).

These are not isolated cases but have come to public notice because they involve high-profile organisations and the capacity of the victim, both financially and emotionally, to pursue the matter.

Workplace bullying is so entrenched in our society that we fail to see it as an infringement of human rights and dignity.

Women in low-paid employment — in the community not-for-profit sector, for example — are subjected to this humiliation daily. It is invisible or at least accepted. These are women whose survival is dependant on their meagre incomes and to speak out would make the situation more unbearable, so they suffer it until they can secure other employment. If they raised their voices they would be labelled as troublemakers and blacklisted within the close-knit sector — no reference, no job. This treatment is usually at the hands of other women as these are female-dominated workplaces.

I have been fortunate to have had a long and varied work history in both the private and community sectors. I have also been fortunate to have had senior managers who have welcomed input and have addressed issues of concern when I have raised them. Maybe it was naive of me to think that this was the culture in all organisations.

When I, in a middle management role in one of our iconic not-for-profit organisations, expressed my concerns about staff morale, high absenteeism, internal policies overriding legislation and inappropriate relationships between trainees and senior management during a probationary period, my employment was terminated.

Since then the entire branch of workers I managed has found other employment, silently taking their humiliation with them. No doubt that organisation will take credit for “helping women to reach their full potential.”

Susan Maclean, letter to the editor  
*Sydney Morning Herald*, 22 June 2011, p. 10

## Whistleblowers Australia membership

Membership of WBA involves an annual fee of \$25, payable to Whistleblowers Australia. Membership includes an annual subscription to *The Whistle*, and members receive discounts to seminars, invitations to briefings/ discussion groups, plus input into policy and submissions.

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