

Wikileaks: Bradley Manning and the Rule of Law

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Theme: [Crimes against Humanity](#), [Law and Justice](#)

Put aside Bradley Manning's guilt or innocence and ask — what should Bradley Manning have done when he saw evidence of war crimes, other crimes and constant deception of the American people and others? Should he have hidden the evidence? Taken it up a chain of command that was complicit? Or, expose it? Manning exposed it not because he is a traitor but because he is a patriot that wants to make the United States a more perfect union.

The case of Private Bradley Manning raises legal issues about his pre-trial detention, freedom of speech and the press, as well as proving his guilt beyond a reasonable doubt. Putting aside Manning's guilt or innocence, if Bradley Manning saw the Afghan and Iraq war diaries as well as the diplomatic cables published by WikiLeaks what should he have done? And, what should be the proper response of government to their publication?

A high point in the application of the rule of law to war came in the Nuremberg trials where leaders in Germany were held accountable for World War II atrocities. Justice Robert Jackson, who served as the chief prosecutor in the Nuremberg trials while on leave from the U.S. Supreme Court, said "If certain acts of violation of treaties are crimes, they are crimes whether the United States does them or whether Germany does them, and we are not prepared to lay down a rule of criminal conduct against others which we would not be willing to have invoked against us."

One of the key outcomes of the Nuremberg trials was that people who commit war crimes or crimes against humanity will be held accountable even if they were following orders. This is known as [Nuremberg Principle IV](#) which states: "The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law provided a moral choice was in fact possible to him." The Nuremberg principles were enshrined in a series of treaties.

How do the Nuremberg Principles and other laws of war apply to Bradley Manning?

What is a person who does not want to participate in war crimes or hiding war crimes supposed to do when he sees evidence of them? If Manning hid the evidence would he not be complicit in the crimes he was covering up and potentially liable as a co-conspirator? These were questions that Bradley Manning allegedly wrestled with. According to unverified chat logs [Manning, talking with Adrian Lamo on email, asks](#): "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?"

In Iraq, [Manning was ordered](#) "to round up and hand over Iraqi civilians to America's new Iraqi allies, who he could see were then torturing them with electrical drills and other

implements.” Manning questioned the orders he was being given to help round up Iraqis and [brought his concerns to the chain of command](#). He pointed to a specific instance where 15 detainees were arrested and tortured for printing “anti-Iraqi literature” he found that the paper in question was merely a scholarly critique of corruption in the government asking “Where did the money go?” He brought this to his commander, who told him to “shut up” and keep working to find more detainees. [Manning realized](#) he “was actively involved in something that i was completely against...”

He wrestled with the question of what to do. According to the unverified chat logs with Lamo [Manning told Lamo](#) that he hoped the publication of the documents and videos would spur “worldwide discussion, debates, and reform.” He went on to say, “I want people to see the truth... regardless of who they are... because without information, you cannot make informed decisions as a public.” The command structure would not listen, so Manning went beyond them to the people who are supposed to control the military in our democratic republic. He wanted Americans to know the truth.

In the chat logs, Lamo asked Manning why he did not sell the documents to a foreign power. Manning realized he could have made a lot of money doing so, but he did not take that path. He [explained](#): “it belongs in the public domain – information should be free – it belongs in the public domain – because another state would just take advantage of the information... try and get some edge – if its out in the open... it should be a public good.” These are not the words of a traitor, of someone out to hurt the United States, these are the words of someone trying to improve the United States, trying to get the country to live up to its highest ideals.

Manning is charged so far with three counts of unlawfully transferring confidential material to a non-secure computer, i.e. leaking state secrets. Manning faces up to 52 years if convicted of these crimes and it is likely that he will be charged with additional offenses. The [charges against Manning end stating](#) that Manning’s “conduct being prejudicial to good order and discipline in the armed forces and being of a nature to bring discredit upon the armed forces.”

Well, what exactly did the materials Manning allegedly leak show?

The video that is the focus of these initial charges is known as the [Collateral Murder video](#). The video shows American soldiers in an Apache helicopter gunning down a group of innocent men, including two Reuters employees, a photojournalist and his driver, killing 16 and sending two children to the hospital. The video, which has been viewed by millions, shows initial blasts at the group killing and wounding people. U.S. forces watch as a van pulls up to evacuate the wounded. [The soldiers again open fire](#) from the helicopter, killing more people. A crew member is heard saying, “Oh yeah, look at those dead bastards.” But, that was not the end, [journalist Rick Rowley reported](#) that the man who they drove over had crawled out of the van and was still alive when the tank drove over him, cutting him in half.

[Marjorie Cohn](#), who teaches criminal law and procedure, evidence, and international human rights law at the Thomas Jefferson School of Law, describes [multiple war crimes](#) from this single video. First, targeting and killing civilians who do not pose a threat violated the Geneva Conventions. Second, when soldiers attacked the van attempting to rescue the wounded they violate the Geneva Conventions which allows the rescue of wounded. Third, the tank rolling over the wounded man, splitting him in two, is a war crime and even if he

were already dead disrespecting a body violates the Geneva Conventions.

The Collateral Murder video documents war crimes according to this legal expert on human rights law. When Manning saw these war crimes, what should he have done? Should he have covered up the evidence of potential war crimes? Should he try to go up the chain of command – a strategy that he had already unsuccessfully tried? If Manning did what he is accused of, he did the only thing that could stop these crimes from continuing.

Other documents Manning allegedly provided to WikiLeaks showed the 2009 [Granai airstrike](#) in Afghanistan, in which as many as 140 civilians, including women and children, were killed in a U.S. attack. [The Australian](#) reported that the airstrike resulted in “one of the highest civilian death tolls from Western military action since foreign forces invaded Afghanistan in 2001.” [The Afghan government has said](#) that around 140 civilians were killed, of [which 93 were children](#) – the youngest 8 days old – [25 were women](#) and 22 were adult males. [The U.S. military had said](#) that 20-30 civilians were killed along with 60-65 insurgents.

Allegedly, Manning released hundreds of thousands of documents to WikiLeaks who, working with traditional media outlets has released a small percentage of them. He left it to journalists to decide what was appropriate for release. The small percentage of documents released show widespread and systemic abuses in U.S. foreign policy and in the conduct of wars. WikiLeaks documents including the [Iraq](#) and [Afghanistan War Logs](#) and the [diplomatic cables](#) show:

- That U.S. troops [kill civilians](#) without cause or concern and then [cover it up](#) (more examples of hiding civilian killings [here](#), [here](#) and [here](#)) including killing [reporters](#);
- The CIA is fighting an undeclared and unauthorized [war in Pakistan](#) with [Blackwater mercenaries](#);
- The [President of Afghanistan](#) is not trustworthy, that Afghanistan is rife with [corruption and drug dealing](#);
- The [Pakistan military and intelligence agencies aid Al Qaeda](#) and the Taliban;
- The [U.S. looks the other way when governments it puts in power torture](#);
- The diplomatic cables also show that beyond the war fronts that [Hillary Clinton has turned State Department Foreign Service officers into a nest of spies](#) who [violate laws to spy on diplomats](#) all with marching [orders drawn up by the CIA](#);
- That Israel, with U.S. knowledge is [preparing for a widespread war](#) in the Middle East, [keeping the Gaza economy at the brink of collapse](#) and show [widespread corruption](#) at border checkpoints.

These are a few examples among many. The documents published by WikiLeaks, allegedly provided to them by Manning, are of critical importance to understanding that U.S. foreign and military policy is not what Americans are told. No doubt historians, human rights lawyers, academics and others will be reviewing these documents and reporting in greater detail the systemic nature of the unethical and often illegal behavior of U.S. foreign policy. This already has the world [looking at the United States with new eyes](#).

Experience inside the U.S. military turned a young man from Oklahoma who believed in

America into someone who doubted it. Manning believed in American freedom, especially economic freedom and believed the United States played a positive role in the world. He wanted to serve his country. In doing so he became someone who questioned the leadership of the nation, its foreign policy and its conduct of wars. He saw war crimes, violations of law and constant deception. After much soul searching he decided that the quest for a more perfect union required him to share this information.

Justice Robert Jackson, during his Opening Address at the Nuremberg Trials, said: "If we can cultivate in the world the idea that aggressive war-making is the way to the prisoner's dock rather than the way to honors, we will have accomplished something toward making the peace more secure." Bradley Manning joins in this enlightened viewpoint and is working to make peace more secure and the United States a better nation.

A mature American leadership, rather than prosecuting Manning, would encourage an honest debate about U.S. foreign policy. Thomas Jefferson warned that "oppressions are many" and that for the people to govern we should "leave open . . . all the avenues to truth." Manning has provided an avenue to truth where we can look honestly at our government and dramatically change direction. Enlightened leadership would renounce blackmail, threats and spying of foreign officials, as well as torture and war.

Instead Manning is suffering a fate Thomas Jefferson warned about: "Most codes extend their definitions of treason to acts not really against one's country. They do not distinguish between acts against the government and acts against the oppressions of the government." Manning has been sitting in solitary confinement for seven months awaiting trial. He is suffering this fate for the betterment of the nation. People who care about the United States and our impact on the world should stand with Bradley and work to transform American foreign policy away from militarism and toward one where we work cooperatively with nations for the advancement of all.

To stand with Bradley visit: [Stand With Brad](#).

To prevent prosecution of WikiLeaks visit: [WikiLeaksIsDemocracy.org](#)

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