Contemporary Justice Review: Issues in Criminal, Social, and Restorative Justice

Publication details, including instructions for authors and subscription information:
http://www.tandfonline.com/loi/gcjr20

The case of Bradley Manning: state victimization, realpolitik and WikiLeaks

Dawn L. Rothe a & Kevin F. Steinmetz b

a Department of Sociology and Criminal Justice, Old Dominion University, Norfolk, VA, 23529, USA

b College of Criminal Justice, Sam Houston State University, Huntsville, TX, 77341, USA

Published online: 24 May 2013.


To link to this article: http://dx.doi.org/10.1080/10282580.2013.798694

PLEASE SCROLL DOWN FOR ARTICLE

Taylor & Francis makes every effort to ensure the accuracy of all the information (the “Content”) contained in the publications on our platform. However, Taylor & Francis, our agents, and our licensors make no representations or warranties whatsoever as to the accuracy, completeness, or suitability for any purpose of the Content. Any opinions and views expressed in this publication are the opinions and views of the authors, and are not the views of or endorsed by Taylor & Francis. The accuracy of the Content should not be relied upon and should be independently verified with primary sources of information. Taylor and Francis shall not be liable for any losses, actions, claims, proceedings, demands, costs, expenses, damages, and other liabilities whatsoever or howsoever caused arising directly or indirectly in connection with, in relation to or arising out of the use of the Content.

This article may be used for research, teaching, and private study purposes. Any substantial or systematic reproduction, redistribution, reselling, loan, sub-licensing, systematic supply, or distribution in any form to anyone is expressly forbidden. Terms &
The case of Bradley Manning: state victimization, realpolitik and WikiLeaks

Dawn L. Rothe* and Kevin F. Steinmetz

Department of Sociology and Criminal Justice, Old Dominion University, Norfolk, VA 23529, USA; College of Criminal Justice, Sam Houston State University, Huntsville, TX 77341, USA

(Received 20 June 2012; final version received 29 October 2012)

While the case of WikiLeaks release of classified documents and its founder, Julian Assange, has garnered much popular attention, the formal social control reactions to the alleged involvement of Private First Class Bradley Manning has remained, relatively glaringly absent from the media, public and political discussions. Moreover, while scant criminological attention has been given to the extradition of Assange on sexual charges and the situation of WikiLeaks, there has been no analysis of the control mechanisms that were placed on Manning in an effort to cease the release of US documents and his activity as a whistle-blower. This examination fills this void by adding to the literature on states’ responses to whistle-blowers by highlighting states’ mechanisms including retaliation and redirection to obscure its criminality as well the theoretical framework of realpolitik. While realpolitik has been used previously to explain motivations for state crime, it has not been applied as an explanation for the implementation of controls. Not only is the preservation of state legitimacy and practices of realpolitik central to the reactions of the government to this case of whistle-blowing, but that the responses denied a presumption of innocence and have violated basic human rights tenants, the Uniform Code of Justice, the US Constitution, thus making this a case of state victimization.

Keywords: realpolitik; state crime; Bradley Manning; WikiLeaks

Introduction

Toward the end of 2010, both domestic and international media were frantically covering a subject which was firmly positioned at the nexus of power, politics, and resistance – WikiLeaks. Of primary focus was the whistle-blower organization’s release of secret US documents called the ‘diplomatic cables’ (emails from US foreign diplomats) (Steinmetz, 2012). Yet, as scholars of state crime have noted, many of the revelations of government crime and corruption that are brought to public attention are not revealed through mechanisms built into the structure of the government. Whistle-blowers have used various means to disseminate documentation of such criminality, most notably, via the media, thus spreading the information to the general public through the front pages of newspapers to the Internet including social-networking sites (Ross & Rothe, 2008; Sagar, 2007; Steinmetz, 2012). Consider that leaks have
provided details on state crimes and political corruption including The Pentagon Papers scandal, the uncovering of detainee abuse, illegal use of wiretaps, the practice of extraordinary renditions, political killings, assassinations, et cetera.

In many of these situations, governments often respond harshly to whistleblowers. In general, the process of control can be interpreted as a reaction to a threat to an agency’s, organization’s, or country’s power, survival, and autonomy. Thus, exposure of state criminality is rarely welcomed by those in power and is often countered through a variety of legal or illegal mechanisms at the state’s disposal (Ross & Rothe, 2008). Turk (1985), for example, outlined a series of state reactions against individuals and organizations that the state perceives as threatening to its stability: intelligence gathering, information control, and neutralization, as well as specific and general deterrence. Churchill and Wall (1990) also reviewed seven major outcomes to individuals and organizations that confronted the Federal Bureau of Investigation and the Chicago Police Department in their extralegal actions against the American Indian Movement and Black Panther Party activities. State agency’s responses included: eavesdropping, bogus mail, black propaganda operations, disinformation or gray propaganda, harassment arrests, use of infiltrators and agents provocateurs, pseudo-gangs, black jacketing, fabrication of evidence, and even assassinations. More recently, Ross and Rothe (2008) proposed a continuum to explain the irony of controlling state crime and provided a model for contextualizing states’ reactions to disclosure of their criminality and responses to whistleblowers: (1) censure, (2) scapegoating or obfuscation, (3) retaliation, (4) defiance/resistance, (5) plausible deniability or improving the agency’s ability to hide and/or explain away crimes, (6) relying on self-righteousness, (7) redirection/misdirection, and (8) fear mongering. Ross and Rothe suggest that once a state crime is pursued and/or enacted there may be an attempt to control the act and/or thwart ongoing efforts by the state to engage in criminal activities. If there is an effort to control the state from its intended or past actions, then the controller(s) will decide to take some action. Based upon the type and form of action taken by the controller, the state may respond by utilizing the catalysts listed above. The states use of these tools may result in additional state criminality and/or victimization.

The United States has used control mechanisms against individuals and organizations that attempt to whistle-blow and/or disclose government documents deemed to be important to the general public (Ross & Rothe, 2008). Consider the landmark 1971 case, New York Times Company vs. US. This was the first effort by the federal government in contemporary times to control the publication of a newspaper. The New York Times received and published articles from a leaked copy of a Rand report (authored by Daniel Ellsberg and later known as the ‘Pentagon Papers’), on the military situation in Vietnam. The appellate courts’ indecisiveness brought the ultimate decision to the Supreme Court, which ruled that a prior control of publication would be allowed only in the most extraordinary cases that threatened grave and immediate danger to the security of the US. This case was central to the March 2006 controversy surrounding the publication of leaked information exposing the National Security Agency’s secret surveillance program on US citizens (Rothe, 2007). These cases were taken to court using the 1917 Espionage Act (Ross & Rothe, 2008).

Likewise, in 2001, former Attorney General John Ashcroft commissioned a group of top intelligence professionals to examine the legal authority to charge government agents who leak unauthorized classified information under the Espionage Act. In a letter to Congress, Ashcroft stated the government needed to
entertain new approaches to deter, identify, and punish those who engage in the practice of unauthorized disclosure of classified information’ (2002, p. 9). Subsequently, several investigations ensued, including inquiries into the secret war plans leaked to *The New York Times* and *The Washington Post* and the leak of a letter written by Secretary of State Colin Powell to the Pentagon objecting to the Syria Accountability Act (Ross & Rothe, 2008). On 30 December 2005, authorities undertook an additional criminal investigation into the circumstances surrounding the disclosed information exposing the National Security Agency’s secret eavesdropping program. This case is highly controversial, as it tested the contradiction between the media’s ability to report on national security issues of public interest, improperly classified material, and as a constraint against unwarranted government secrecy and/or illegal activities against governmental claims of national defense and issues of security. In the case at hand, the US government’s responses to the WikiLeaks disclosures and the detention of the suspected leaker, Private First Class (PFC) Bradley Manning, is an example of state victimization as a result of employing control mechanisms to address the whistle-blowers. More specifically, we add to the extant literature on states’ responses to whistle-blowers by first drawing on previous research that highlights states’ use of various mechanisms including retaliation and redirection to obscure its criminality as well the theoretical framework of realpolitik to analyze the US responses to Manning’s involvement in the leaking of classified and unclassified materials. While realpolitik has been used previously to explain motivations for state crime, it has not been applied as an explanation for the implementation of controls (Kauzlarich & Kramer, 1998; Kramer & Michalowski, 2006; Rothe, 2009; Rothe & Mullins, 2011).

**State criminality and realpolitik**

The realpolitik perspective can – and has been (Rothe, 2009) – used explicitly in the state crime theoretical framework as well as implicitly through an integrated theoretical frame that includes military, economic, and political interests as motivations and avoidance of controls (Kauzlarich & Kramer, 1998; Kramer & Michalowski, 2006; Kramer, Michalowski, & Rothe, 2005; Mullins & Rothe, 2008; Rothe, 2009, 2010; Rothe & Mullins, 2009; Steinmetz, 2012). For example, in the integrated models of state crime, basic concepts of realpolitik have been included. Kauzlarich and Kramer (1998) note that economic pressure can motivate a state to commit crimes and political pressure can serve to control such acts. Likewise, Kramer and Michalowski (2006) suggest that states’ self-interests serve to motivate state crime as was the case in the US invasion and occupation of Iraq. Rothe (2010) expands the discussion, suggesting that politics, economics, and ideology operating at the state and international levels can serve as motivating forces for state criminality. However, within this integrated theory, the discussion of or direct implementation of realpolitik is not incorporated – a glaring oversight the current effort seeks to begin to resolve. Incorporating philosophical modes of governance – like realpolitik – provide useful mechanisms for understanding state motivations and actions that can bolster theories of state criminality and victimization.

Realpolitik has been used by scholars in various fields as well, to understand or explain foreign policy and international relations in many countries such as China (Christensen, 1996; Xin, 2010), Soviet Russia (Kober, 1990), Indonesia (Balachandran, 2007), and the US (Rothe, 2009). Simply, it is ‘a framework that
serves as a guide for policymaking’ and ‘is associated with the school of realism as a political theory of power and neo-realism as an interest-based theory’ (Rothe, 2010, p. 113). The realpolitik mode of governance is a rational-decision-based calculus that derives itself from post-Westphalian enlightenment thinking (Maogoto, 2004). While realpolitik’s origins, as a term, are attributed to the late nineteenth century (Rothe, 2010) the underlying philosophy of realism has been traced back to the Greek historian, Thucydides (Wayman & Diehl, 1994). The concept of realpolitik in national governance has roots dating back to the Peace of Westphalia of 1648 that occurred following the end of the Thirty Years War fought between the Protestant and Catholic states (Maogoto, 2004; Shearing & Johnston, 2010). This period saw the establishment of the modern nation-state. Borders were fixed and sovereignty was bestowed to the national leaders, who largely had impunity within their borders. As Maogoto (2004) states, ‘The post-Westphalian era reinforced the government’s duty to maximize the assets of their states (through militarism and conquest) without regard to the consequences (real or hypothetical) to society’ (p. 2).

Realism and realpolitik are underpinned by the work of philosophers such as Machiavelli and Hobbes who advocated an ‘ends justify the means’ approach of the state (Strauss, 1936, 1958). In a very strict sense, this tradition emphasizes that the state pursues the goals of national security and stability regardless of the ethical or moral dubiousness of the means because the benefits of a stable and powerful country are of the upmost importance. The concept of realpolitik has been expanded to also consider the different institutions within the state (like the economy, the military and political institutions) as well as ideology. Simply stated, a state grounded in a realpolitik philosophy makes decisions guided by bounded rational self-interest rather than by morality, though at times these can be competing pulls (Anderson, 2009; Bassiouni, 2006; Rothe, 2010).

The literature, however, has used the concept of realpolitik to explain states’ foreign policies and/or as motivating factors for committing state crime. It has not been used to explain the application of control mechanisms, especially in the case of those that threaten the basic tenets of a state’s legitimacy and ability to maintain its interests internationally without exposure. This is even more significant when the exposure highlights foreign policies that are dictated by realpolitik rather than a government’s espoused reasons (e.g., rule of law, humanitarian interventions, human rights development). It is here we draw on the importance of realpolitik with the need to maintain state legitimacy and power. In essence, understanding the intersection between: (1) the philosophical mode of governance upholding political, economic, and military interests, and (2) state efforts to maintain power, legitimacy, and control can work to not only explain state motivations to commit social harms but also the way in which persons become victims of the state.

**Case of Manning**

*The moth that comes too close to the flame is likely to get burnt*

*Anonymous*

PFC Bradley Manning was a US Army intelligence analyst at the Contingency Operating Station Hammer, Iraq. In May 2010, Manning was first arrested in connection with the release of a video by WikiLeaks, titled *Collateral Damage* that showed the shooting deaths of Iraqi civilians and two journalists in 2007 by a US helicopter gunship. On 5 July 2010, he was subsequently charged for the release of
that footage. During this time, the release of various documents by WikiLeaks enhanced the suspicion of Manning’s involvement in obtaining and supplying other documents. This included the release of the Reykjavik 13 document (February 2010), the release of a Defense Department classified report and the State Department profiles of Icelandic politicians (March 2010), the release of Apache Baghdad (April 2010), and the release of the Afghan War Diary (July 2010). On 25 July 2010, Manning was transferred to the United States where he was held at the Marine Corps Base in Quantico, Virginia. WikiLeaks continued releasing documents over the course of the next few months, casting additional suspicion on Manning who had allegedly been in contact with Assange over the Internet. Specifically, this included the Iraq War Logs (October 2010) and several newspapers published US diplomatic cables from WikiLeaks (November 2010). On 1 March 2011, Manning was charged with 22 additional counts, replacing the previous charges, including violations of Articles 92 and 134 of the US Uniform Code of Military Justice (UCMJ) and the Espionage Act, which include: (1) knowingly giving intelligence to the enemy, (2) aiding the enemy through indirect means, (3) wrongfully causing intelligence to be published on the Internet, (4) transmitting national defense information, and (5) theft of public property or records. Given that Manning is a member of the US military, prosecution for these crimes are carried out by the military rather than in a federal criminal court. On 20 April 2011, Manning was transferred to the Midwest Joint Regional Correctional Facility in Fort Leavenworth, Kansas.

The case against Manning is based on information provided by former hacker Adrian Lamo, who allegedly was contacted by Manning online to discuss WikiLeaks (McDermott, 2011). Over the course of several days, Manning supposedly told Lamo he had access to the unclassified documents and that he had mined the data, sorted and compressed it, encrypting it and handed it over to WikiLeaks. Lamo also claims Manning told him he had a relationship with Assange and was ‘the’ source for the biggest leak of classified government documents in US history (McDermott, 2011). Lamo took these conversation and contacted the US Military Intelligence. At this point, the FBI, Army Counter-Intelligence, the Army Criminal Investigation Division, and the National Security Agency were all interacting. Lamo offered his story to the magazine, Wired, giving journalist Kevin Poulsen a copy of the logs of conversations he had had with Manning (McDermott, 2011).

After Manning was arrested and with the additional release of documents by WikiLeaks, the public and political spotlight turned to Julian Assange, founder of WikiLeaks. The US government began working on directly linking Manning, Assange, and the leak. If such a link could be established and if Assange had encouraged Manning to obtain the files, Assange could be charged with conspiracy and WikiLeaks would forever be dismantled. However, in several interviews, contrary to Lamo’s claims that Manning disclosed he knew Assange, Assange denied having ever had contact or communication with Manning. Rather, he has pointed out that the WikiLeaks site is one that can be uploaded to, leaving the source’s identity anonymous (Leigh & Harding, 2011). To date, no evidence has directly linked the two, despite efforts to get Manning to implicate Assange. While Assange is not the focus of the case at hand, in terms of Manning’s treatment and prosecution/court martial, he remains an individual of high interest and importance to linking the release of the documents directly to Manning and, most importantly to further control future threats to the state’s legitimacy via the existence of WikiLeaks.
Whether a connection exists, or if the evidence Lamo turned over to authorities is legitimate, remains to be seen. Likewise, we suggest that the intent or motivations behind Manning’s decisions to release sensitive documents is not relevant to the state’s subsequent actions against him which is our focus. Nor, are these related to any defense, including that of public interest, which could be used in his trial. Moreover, Manning’s intent and motivations do not detract from or justify the fact that he continues to serve time nearly three years after his arrest without having been brought to trial (set to occur February 2013) which violates the statute requiring the military to arraign and bring him to trial an accused soldier within 120 days. More importantly, his actual guilt or innocence is not relevant to the treatment by US officials since his arrest which is tantamount to violations of due process, the UCMJ, the US Constitution’s Fifth and Eighth Amendment’s human rights and, some suggest, torture (Coombs, 2010; Greenwald, 2010; Holland, 2010).

Descriptive account of formal reactions and controls against the whistle-blower

When efforts to control state behavior embarrass or threaten the legitimacy of a government, as mentioned above, the responses to the ‘controllers’ can be overly harsh and punitive, retaliatory in nature and redirected to obscure the crimes and harms that have been exposed. Such has been the case with Manning. Consider the conditions of confinement at Quantico where he served an eight month punitive sentence pretrial as example. Manning was held as a maximum-custody detainee under a prevention of injury watch (POI) in a highly restrictive pretrial environment while awaiting a mental-health hearing to decide if the initiated court-martial case against him could proceed. Not unlike other Supermax prisons that have solitary confinement, Manning was not allowed out of his cell 23 hours of the day. On 18 January 2011, he was placed under suicide watch, adding to the already cruel restrictions placed on him. Manning himself described the conditions of his incarceration in a Memorandum to Col. Daniel J. Choike, 11 March 2011:

… I am being treated differently from any other detainee at the Quantico Brig. While the PCF Commander follows the recommendation of the Brig Psychiatrist in dealing with other detainees, this does not happen in my case. Other detainees usually remain on MAX custody or in POI Status for about two weeks before they are downgraded. I, however, have been left to languish under the unduly harsh conditions of MAX Custody and POI Status since my arrival on 29 July 2010. In fact, I am currently the only detainee being held under MAX Custody and the only detainee being held in POI status by the Brig. Any objective person looking at the above facts would have to conclude that this treatment is unjustified.

On 18 January 2011, CWO4 Averhart placed me on Suicide Risk, over the recommendation of Capt. Hocter and the defense forensic psychiatrist, Capt. Moore. His decision was also in violation of Secretary of Navy Instruction (SECNAVINST) 1649.9C Paragraph 4205.5d. As a result of being placed on Suicide Risk, I was confined to my cell for 24h a day. I was also stripped of all clothing with the exception of my underwear. Additionally, my prescription eyeglasses were taken away from me. Due to not having my glasses, I was forced to sit in essential blindness during the day. I remained on Suicide Risk until 21 January 2010. The determination to place me on Suicide Risk was without justification and therefore constitutes unlawful pretrial punishment.

Since 2 March 2011, I have been stripped of all my clothing at night. I have been told that the PCF Commander intends on continuing this practice indefinitely. Initially, after
surrendering my clothing to the Brig guards, I had no choice but to lay naked in my cold jail cell until the following morning. The next morning I was told to get out of my bed for the morning Duty Brig Supervisor (DBS) inspection. I was not given any of my clothing back. I got out of the bed and immediately started to shiver because of how cold it was in my cell. I walked towards the front of my cell with my hands covering my genitals. The guard told me to stand a parade rest, which required me to stand with my hands behind my back and my legs spaced shoulder width apart. I stood at ‘parade rest’ for about three minutes until the DBS arrived. Once the DBS arrived, everyone was called to attention. The DBS and the other guards walked past my cell. The DBS looked at me, paused for a moment, and then continued to the next detainee’s cell. I was incredibly embarrassed at having all these people stare at me naked. After the DBS completed his inspection, I was told to go sit on my bed. About ten minutes later I was given my clothes and allowed to get dressed.

Under my current restrictions, in addition to being stripped at night, I am essentially held in solitary confinement. For 23 h/day, I sit alone in my cell. The guards checked on me every five minutes during the day by asking me if I am okay. I am required to respond in some affirmative manner. At night, if the guards can not (sic) see me clearly, because I have a blanket over my head or I am curled up towards the wall, they will wake me in order to ensure that I am okay. I receive each of my meals in my cell. I am not allowed to have a pillow or sheets. I am not allowed to have any personal items in my cell. I am only allowed to have one book or one magazine at any given time to read. The book or magazine is taken away from me at the end of the day before I go to sleep. I am prevented from exercising in my cell. If I attempt to do push-ups, sit-ups, or any other form of exercise I am forced to stop by the guards. Finally, I receive only 1 h of exercise outside of my cell daily. My exercise is usually limited to me walking figure eights in an empty room.

Manning’s solitary confinement lasted roughly eleven months and was terminated after enough international political pressure from various non-government organizations and the United Nations Special Rapporteur for Human Rights, when he was moved to Fort Leavenworth (20 April 2011). The treatment of Manning and the conditions of confinement as well as its duration minimally constitute violations of due process and human rights under the US Constitution. Imposing these seriously punitive conditions of detention on any individual who has not been found guilty of any crime is also a violation of his right to a presumption of innocence as enumerated in the Universal Declaration of Human Rights and upheld within the US UCMJ.2 Likewise, as noted by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, report (29 February 2012) ‘solitary confinement is a harsh measure which may cause serious psychological and physiological adverse effects on individuals regardless of their specific conditions’ (p. 74). Moreover,

\[\text{[d]epending on the specific reason for its application, conditions, length, effects and other circumstances, solitary confinement can amount to a breach of article 7 of the International Covenant on Civil and Political Rights, and to an act defined in article 1 or article 16 of the Convention against Torture. (A/66/268 paras. 79 and 80)}\]

Since his release from solitary confinement, Manning’s attorney filed a 110 page comprehensive motion on 27 July 2012 containing allegations and evidence of being subjected to ‘illegal pretrial punishment’ while imprisoned at the Quantico Marine Brig for nine months. The court date was set for the beginning of October, postponed until 30 October, and postponed again due to hurricane Sandy until 7
November 2012. Additionally, at the time of this writing, 30 October 2012, the military court continues to refuse to open up the trial for public access, instead suggesting interested parties file numerous Freedom of Information requests.

**US vs Manning: the role of realpolitik, legitimacy, and retaliation**

The process of control by a state has been interpreted as a reaction to a threat of loss of a country’s power and legitimacy. We suggest this also includes any threat to its global political, economic, and military interests (realpolitik). Leaking of documentation of states’ illegal or at best embarrassing behaviors presents a threat to the state’s public image and, vicariously, its power and legitimacy (Steinmetz, 2012). After all, any framework of power, especially a state’s regime, needs legitimacy to insulate itself from critical questions regarding its utility (Hurd, 1999). The international political realm is a central aspect to the case at hand and to why the United States reacted to Manning as it has.

Consider that war crimes committed by the United States were revealed through the release of the war logs and through the video ‘Collateral Murder.’ To maintain legitimacy and power, the state needed to ensure that the impact of the release of this information was minimized and attention taken from the contents to the threat that the whistle-blower posed to the state, in the name of national security. Little concern or attention was given towards the details and the content of the leaked documents (i.e., redirection). Any problems revealed remain unacknowledged. The only concern was and remains that someone threatened US control of information, thus jeopardizing state power and legitimacy. Perhaps most importantly, the release of the information posed a direct threat to foreign relations and the state’s political and economic interests. Consequentially, the person/organization responsible for the disclosure must be prosecuted, condemned and made to serve as a general deterrent.

While the diplomatic cables may not reveal crimes and misdeeds of the magnitude found in the war logs, they still catalog foreign policy and diplomatic misconduct (Steinmetz, 2012). Many of the emails reveal relatively mundane details about US foreign relations; however, they also unveil a darker side of US diplomacy, for example, using diplomats to spy on various United Nations officials can be detrimental to foreign relations (Leigh & Harding, 2011) as is the US obstruction of a ‘torture probe’ by Spain (Rosenberg, 2010). Another cable unveiled US meddling in Haitian politics (Ives, 2011). The exposure from the disclosure of the cables could potentially undermine foreign relations which are vital for a functioning body of international jurisprudence. As Leigh and Harding (2011) describe them:

> The cables discussed human rights abuses, corruption, and dubious financial ties between G8 leaders. They spoke of corporate espionage, dirty tricks and hidden bank accounts. In their private exchanges, US diplomats dispense with the platitudes that characterize much of their public job; they give relatively frank, unmediated assessments, offering a window into the mental processes at the top of US power. (p. 212)

The cables illuminated how, in many situations, the United States is largely not concerned with maintaining foreign relations for ethical or moral reasons. Rather, the relationships were manipulated and maintained for the state’s own interests. Thus, revealing this information threatened not only current relationships, but the means in which future actions might be received.
We suggest that applying the controls on the whistle-blower was done so that the US’s preservation of its ongoing practice of realpolitik as the primary guide for its foreign relations, managing issues of legitimacy, and maintaining power could be affirmed. As stated by the Spiegel Staff (2010), the release of documents provided

... data that can help paint a picture of the foundation upon which US foreign policy is built. Never before has the trust America’s partners have in the country been as badly shaken. Now, their own personal views and policy recommendations have been made public. (p. 3)

When the state’s legitimacy was threatened, policies were enacted to control the threat. In this case, the state’s response was to immediately redirect discussion of and attention on the acts of the state that were revealed to the threat posed to the state, most notably, its national security. This was followed by retribution and retaliation on those responsible. The following figure outlines this process (Figure 1).

In the case of Manning, the state’s reactions included his arrest, and giving specific and general deterrence as well as a means to redirect the focus from the content of the released information, to the ‘criminal’ whistle-blower. After all, his arrest and detention first serve as a specific deterrent and, as the overarching belief in general deterrence still undergirds the system of laws, as a general deterrent to other potential whistleblowers. In this process, however, the treatment of Manning resulted in another case of state criminality and victimization. Consequentially, the concepts of redirection and retaliation presented in Ross and Rothe’s (2008) continuum are present.

While the procedures of military justice are different than criminal justice proceedings at the federal, state, and local level, there remain rules and regulations that guide them. Consider that the UCMJ must also comply with the US Constitution and international human rights laws. For example, under the Eighth Amendment, the right to protection against cruel and unusual punishment is provided for (US v. Matthews, 16 M.J. 354, 368; CMA 1983). Additionally, various parts of the UCMJ were violated. Article 55, UCMJ, 10 U.S.C. § 855 states, ‘Punishment by flogging,

![Figure 1. The processes of the state, realpolitik and control.](image-url)
or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by a court-martial or inflicted upon any person subject to this chapter.’ Likewise, UCMJ 813, Article 13 states,

No person, while being held for trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him, nor shall the arrest or confinement imposed upon him be any more rigorous than the circumstances required to insure his presence, but he may be subjected to minor punishment during that period for infractions of discipline.

The specific treatment and conditions of confinement of Manning are related to the military culture as well as where he was viewed as violating a basic principle of loyalty, making him a target for abuse derived from a desire for retribution. After all, within the military culture, loyalty is considered to be a lynchpin to duty and honor which are considered fundamental characteristics. In the case of whistleblowing, releasing sensitive documents, regardless of intent, would be viewed as dishonorable and a derelict of duty. This of course is part of the culture of control within the organizational culture.

Not only was the treatment of Manning directly related to retribution but also as a means to try to make a direct link with Assange to further enable formal controls to be applied to him. Specifically, they needed to know whether Assange was a passive recipient of material from Manning, or if he had helped him to extract the files to which he could be charged with conspiracy (Savage, 2010). This is evidenced by the many interviews conducted with him in an effort to gain more information. After all, the Obama Administration struggled to find ways to prosecute and extradite Assange (Steinmetz, 2012). Breaking Manning down through what amounts to inhumane conditions and cruel punishment thus serves several purposes: as a means to show what could happen to other individuals if they serve as whistleblowers (deterrent), retribution and punishment for the disgrace to the United States, and as a tool to get his cooperation to charge Assange and dismantle WikiLeaks.

Regardless of the reasons for his arrest and treatment during detention, the conditions Manning was placed in and his treatment amounted to violations of human rights as well as the US Constitution and the USMJ. He has also been denied the right to presumption of innocence. Consider President Obama’s statement, ‘We are a nation of laws! We do not let individuals make their own decisions about how the laws operate. He broke the law’ (Condon, 2011, p. 2). Given the abuse of Manning, we suggest that he has been victimized by the state, making another example of state harm and state crime that occurred through the state’s efforts to maintain legitimacy, its power, and perhaps most importantly, the level of secrecy that enables it to practice realpolitik rather than the idealism and moral concerns the government espouses.

Conclusion

We began this piece by suggesting that realpolitik was central to the US government’s responses to WikiLeaks, Assange, and most notably PFC Manning. We attempted to illustrate why this was the case, drawing on the theoretical frames of realpolitik and controls of state crime. After all, as Kober (1990) and Iadicoloa (2010) have noted, the US has become an intensely realpolitik-oriented state during
and after the Cold-War period where realpolitik’s emphasis on balancing powers was prominent and maintaining its status as superpower. We suggested these policies dominated by realpolitik were threatened, as was the US government’s legitimacy by the leaked information. In response, the state redirected the attention from its own actions disclosed in the leaked documents, to that of the whistleblower, Manning. The focus turned to defining him as a threat to national security, worthy of retribution and retaliation. This was despite the fact that the information disclosed posed no threat to US security. As stated on 27 July 2010 by President Barak Obama in the White House Rose Garden:

While I’m concerned about the disclosure of sensitive information from the battlefield that could potentially jeopardize individuals or operations, the fact is these documents don’t reveal any issues that haven’t already informed our public debate on Afghanistan; indeed, they point to the same challenges that led me to conduct an extensive review of our policy last fall. (Pepper, 2010, p. 1)

Manning’s treatment, as outlined here, has been hyper-punitive without portfolio. This is not a new pattern, as can be seen in the cases of both Abu Ghraib and Guantanamo where individuals, including US citizens, were defined as enemy combatants to obfuscate the relevance of international humanitarian law. Consider that Yaser Hamdi and Jose Padilla were subjected to the same ‘Standard Operating Procedure’ applied to prisoners at Guantánamo that involved the use of enhanced interrogation techniques. However, unlike the populations in Guantanamo and Abu Ghraib, Hamdi, Padillo and Manning all suffered long periods in total isolation. Furthermore, unlike the cases of Hamdi and Padillo, the evidence, conditions of incarceration and trials of Manning remain secretive. This latest incarnation of US penology speaks to the impact on future whistleblowers as well.

The position of the United States toward whistle-blowers is subjectively defined and contradictory in its stated position and its policy implementation. Consider that when President Obama was first elected President in 2008, the website Change.gov was launched for the purposes of the transition between presidencies. President Obama and Vice President Biden detailed their vision for transparency and the role of the whistleblower as the following:

Often the best source of information about waste, fraud, and abuse in government is an existing government employee committed to public integrity and willing to speak out... Barack Obama will strengthen whistleblower laws to protect federal workers who expose waste, fraud, and abuse of authority in government. Obama will ensure that federal agencies expedite the process for reviewing whistleblower claims and whistleblowers have full access to courts and due process. (Change.gov)

When Manning and WikiLeaks forced government transparency on to the US, the position changed. The United States exercised formal controls to maintain its legitimacy and ability to frame their foreign policies within the framework of realpolitik, to ensure its diplomatic, economic, military interests were not threatened. In that process, the State redirected attention from the contents of the disclosure to demonizing and punishing those involved which led to retribution, retaliation and an additional victim of state crime. Given the trends of the State’s policies related toward secrecy and its treatment of whistle-blowers, as evidenced here, there should be a growing concern over the ability of individuals and organizations to expose
any information perceived to embarrass or threaten the state’s legitimacy and/or policies that remain wedded to the practice of realpolitik.

Acknowledgement
We thank Jeffrey Ian Ross, Victoria Collins and the reviewers for their helpful comments and suggestions on earlier drafts.

Notes
1. We suggest his intent was not to aid the enemy, but rather to expose the state’s actions and senseless killings of civilians. This, we suggest, was motivated by the many injustices he saw and experienced in the military setting including those directed at him for his sexuality.

2. Article 51 of the UCMJ requires that for court martialing hearings, the presumption of innocence is mandated. For preliminary hearings, however, the presumption of innocence is not necessarily required. Additionally, the philosophy of the ‘rule of law’ is founded in the presumption of innocence.


References