

Bradley Manning Verdict: Impacts on Freedom of the Press and the “Rights of Whistleblowers”

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The verdict in the Bradley Manning trial has already begun to create reverberations as people start to understand its impact, beyond the impact on Manning.

While the greatest threat to Manning, Aiding the Enemy, was defeated, another threat, The Espionage Act, was not. The [crimes Manning was convicted](#) of mean he is risking 136 years in prison. For a whistleblower who exposed war crimes and unethical behavior in U.S. foreign policy to be facing a lengthy prison term, while the people exposed by government documents are not even investigated, shows how confused the United States has become.

In fact, [the crimes Manning exposed](#) were much more serious than the crimes of which he has been convicted. The [“Collateral Murder” video](#) which showed U.S. soldiers slaughtering innocent Iraqis, and two Reuters journalists, with joy and glee is one example of many civilian killings that deserve prosecution. The documents which include 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, [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 some examples among many, and the documents have [changed the world in many ways](#), including helping to spur the Arab Spring, which expanded a global revolt against neoliberal economic policies.

These examples show that Bradley Manning was a whistleblower, one of the most important whistleblowers in history. They also show the importance of whistleblowers to a free press

and informed public. Shouldn't the American people and the people in countries affected by U.S. policy know these facts?

Manning's convictions for espionage are the first time a whistleblower has been convicted under the Espionage Act. This 1917 law passed during the propaganda effort to support World War I was designed to criminalize spying against the United States. For a whistleblower to be turned into a spy is a great risk to the First Amendment. [Julian Assange described the verdict](#) as "calling journalism 'espionage'" [Reporters Without Borders sees the verdict](#) as a threat to investigative journalists and their sources. The [Center for Constitutional Rights writes in reaction](#) to the verdict: "What is the future of journalism in this country? What is the future of the First Amendment?"

This question is even more frightening when the prosecutor's argument on behalf of the government is understood. The prosecutor's position was that merely publishing information that is critical of the United States would violate the law because it would provide enemies of the United States with a tool to build their movement. If that position is ever accepted by the courts, there will be no First Amendment remaining.

And, during the trial the treatment of the media by the military showed their utter disregard for press freedom. In many respects it seemed to be [journalism itself that was facing court martial](#). Routine coverage was severely restricted by limiting access to court documents and records, frequent lack of any internet connection, and inadequate physical accommodation for reporters. During the closing argument we saw [outright intimidation with intense security](#), including [armed camouflaged troops](#) walking up and down the aisle peering over journalists' shoulders. Reportedly this security was [ordered by Judge Denise Lind](#).

It's a sad irony that the significance of this trial for the future of press freedom has largely been lost on the mainstream press, who've been missing in action in this trial - as in many other historic developments over the past decade and more.

The key legal basis for turning whistleblowers that expose crime, fraud and abuse; as well as journalists reporting on such information into traitors treated as spies under the Espionage Act, is the removal of a "bad faith" requirement. In [United States v Truong](#), the Fourth Circuit Court of Appeals commented on the notion of bad faith being a requirement for conviction writing that an "honest mistake" was not a violation. However, in the Manning case as well as the prosecution of former CIA agent John Kiriakou, the trial courts found no evidence of bad faith was needed. Academics, journalists, human rights lawyers and others concerned with the First Amendment need to build the case that bad faith is an essential requirement of prosecution under the Espionage Act in order to protect the First Amendment. The Manning appeals may become the vehicle for making this case and changing the law.

Judge Denise Lind now begins the sentencing phase of the Manning court martial. This is expected to last two to four weeks. Actual sentencing is expected at the end of August or beginning of September. Even the sentencing phase of this trial is controversial as the government will call [13 witnesses who will testify in executive session](#) and rely on [three "damage assessments"](#) that will also not be publicly available (even Manning will not be able to see one, only his lawyer). During the sentencing phase, issues that were excluded in the guilt phase will be relevant, e.g. Manning's intent, the impact of the release of the documents.

People should take heart from history. Throughout U.S. history, bad decisions have led to social movements that created transformative change. In 1857 the Supreme Court ruled in the Dred Scott decision that slaves were property without any human rights. The Emancipation Proclamation freeing the slaves occurred six years later in 1863. Paxton's Case, in the pre-revolutionary period, upheld the right of the British to search homes, businesses and the persons of American colonists based on meaningless general writs. At the end of that trial, a young court reporter, John Adams, wrote "Then and there the child Liberty was born."

And, Bradley Manning should take heart from the experience of Daniel Ellsberg. Unlike Manning, Ellsberg released top secret documents, Mannings were low level secrets that hundreds of thousands had access to. Ellsberg was also called a traitor and threatened with over 100 years in prison; if not for Nixon administration prosecutorial abuses he may have been convicted. But today, most people recognize Ellsberg is a hero for exposing the fraudulent foundation and purposes of the Vietnam War. Manning is considered a hero by many today and no doubt will be considered a hero by most Americans in the future.

Let the legacy of Manning's courage be a rallying cry for all of us. It is an opportunity to push back on the U.S. security state and demand that the First Amendment protecting our rights to Freedom of Speech, Assembly and to a Free Press, be re-invigorated. It is an opportunity to build a movement against U.S. empire and militarism and a complete re-thinking of U.S. foreign policy. These demands are ones for all Americans to insist upon; and they are for each of us to work for. Success in restoring these Constitutional rights and ending U.S. military interventionism would be a great legacy for the courage of Bradley Manning.

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