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Freedom of Speech is More Important than Momentary Embarrassment

The hysteria which has swept governmental circles concerning the publication, by WikiLeaks and newspapers working in tandem with that organisation, would not be believable if we had not witnessed it with our own eyes. In the last week, we have seen both the Attorney-General and the Prime Minister accusing WikiLeaks and its public spokesperson, Julian Assange, of unnamed and unspecified criminal conduct. The government has directed its police force to investigate Mr. Assange, an Australian citizen, for criminal conduct. When put on the spot, both the Attorney-General and the Prime Minister have admitted that they know of no illegality committed by Mr. Assange or the organisation for whom he speaks.

The hysteria from the United States is more worrying. Numerous pundits and politicians have called for Mr. Assange to be put to death, either judicially or extra-judicially. One might have hoped that the Australian Attorney-General and Prime Minister would have been at pains to declare such calls to be entirely inappropriate. No such statements have been forthcoming.

Australia has a strong tradition of free speech and a strong and free press. Our Constitution has been held to enshrine our right as members of the polity to engage freely in political discussion. The type of discussion which falls within the notion of political has been held by the High Court to be wide ranging. In the last week, in a case about tax exemptions for charitable institutions, the Court has emphasised the importance of political debate to our political institutions as established in the Constitution.

The United States' culture is no less founded in an appreciation of free speech and a free press. Both concepts are enshrined in the famous First Amendment to the US Constitution.

Yet, in both countries, the WikiLeaks hysteria threatens to do long term damage to the free speech of anyone who offends the powers that be. And a long tradition of a free press in both countries is also endangered by the actions being threatened and attempted against Mr. Assange.

We can test attitudes about WikiLeaks' revelations by imagining any or even a collection of the documents' having fallen into the hands of a well-known journalist or newspaper proprietor. We can then ask the question whether that journalist or proprietor would have published? In the case of 98% of the documents or more, we can give that question a

definitely affirmative answer. Would that person have been criticized? I think the more respectable the journalist or proprietor, the less likely criticism is likely to flow. And for just a few of the documents released by WikiLeaks, I can imagine most journalists hoping to line up for awards on Walkleys night.

Some of the information released goes to the heart of the public's right to know. Cables which show attempts by the British Foreign Office to keep US cluster bombs on British soil fall into that category. (The Australian Parliament just legislated to allow it to happen on Australian soil.) So does information about Middle Eastern heads of state secretly urging war on Iran. So does the cable which seems to indicate that US diplomats were urged to spy on UN officials at the UN.

There are other documents where the arguments about publication are more evenly balanced. Lists of strategic assets may arguably be more properly withheld from the public eye. These are arguments, however, about journalistic judgment. They are arguments where different people can hold different opinions. These arguments are worth having as are arguments about whether the long term impact of the WikiLeaks diplomatic cables releases will result in greater or lesser transparency in the conduct of international affairs.

These arguments should not be cheapened by threats of arrest for crimes which we know have not been committed. We should not seek to intimidate those who exercise their freedom of the press to publish material which we find embarrassing. No matter how challenging the message, we must insist that the life and well-being of the messenger is not endangered.

Speak up, Ms. Gillard, this time in defence of Mr. Assange and WikiLeaks.

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