

Bradley Manning: a show trial of state secrecy

The US government's suppression of all accountability and transparency in prosecuting the WikiLeaks suspect is totalitarian



Michael Ratner
guardian.co.uk, Tuesday 24 April 2012 14.12 EDT
[Article history](#)



Bradley Manning is seen arriving for a motion hearing in the case United States v Manning at Fort Meade in Maryland. Photograph: Brendan Smialowski/AFP/Getty Images

On 24 April, a hearing in one of the most important court martial cases in decades will take place in Fort Meade, Maryland. The accused faces life in prison for the 22 charges against him, which include "aiding the enemy" and "transmitting defense information". His status as an alleged high-profile whistleblower and the importance of the issues his case raises should all but guarantee the proceedings a prominent spot in major media, as well as in public debate.

Yet, in spite of the grave implications, not to mention the press and public's first amendment right of full and open access to criminal trials, no outside parties will have access to the evidence, the court documents, court orders or off-the-record arguments that will ultimately decide his fate. Under these circumstances, whatever the outcome of the case, the loser will be the transparency necessary for democratic government, accountable courts and faith in our justice system.

In the two years since his arrest for allegedly leaking the confidential files that exposed grand-scale military misconduct, potential war crimes and questionable diplomatic tactics, army private Bradley Manning has been subjected to an extremely secretive criminal procedure. It is a sad irony that the government's heavy-handed approach to this case only serves to underscore the motivations – some would say, the necessity – for whistleblowing like Manning's in the first place.

The most well-known of the leaked files, a 39-minute video entitled "Collateral Murder", depicts three brutal attacks on civilians by US soldiers during the course of just one day of the Iraq war. The footage, recorded from the cockpit of a US Apache

helicopter involved in the attacks, shows the killing of several individuals, including two Reuters journalists, as well as the serious injury of two children. Beyond the chilling images of US soldiers eagerly pleading for chances to shoot, the release of this footage placed a spotlight on the military's blatant mischaracterization of the events, in which a spokesman claimed that there was "no question" that the incident involved engagement with "a hostile force", and underscores the vital role that public scrutiny plays in government accountability.

As an attorney with the [Center for Constitutional Rights \(CCR\)](#) and a legal adviser to [WikiLeaks](#) and [Julian Assange](#), I continue to attend Manning's hearings and can only describe them as a theater of the absurd: the trial involves numerous and lengthy off-the-record conferences, out of sight and hearing of the press and public, after which the judge provides an in-court summary that hardly satisfies standards of "open and public". Perhaps more remarkable is the refusal even to provide the press and public with a pre-trial publicity order, which was signed by the judge – an order that details what lawyers can and cannot reveal about the case. Yes, even the degree to which proceedings should be kept in secret *is a secret*, leaving the public and media chained in a [Plato's Cave](#), able only to glimpse the shadows of reality.

The press and advocacy groups, however, have not been quiet about the trampling of their rights. [The Reporters Committee for Freedom of the Press](#), on behalf of 46 news organizations, urged the Department of Defense to take measures that would allow the news media to view documents prior to court arguments. The committee pointed out that the trial for the "alleged leak of the largest amount of classified information in US history" is of "intense public interest, particularly where, as here, that person's liberty is at stake". The Center for Constitutional Rights, too, has requested access in the interest of an "open and public" trial, but neither appeal has been answered.

This is a clear violation of the law, but it will likely take burdensome litigation to rectify this lack of transparency. The [US supreme court](#) has insisted that criminal trials must be public, and the fourth circuit, where this court martial is occurring, has ruled that the first amendment right of access to criminal trials includes the right to the documents in such trials.

The greater issue at hand is why this process should be necessary at all. As circuit judge Damon Keith famously wrote in [Detroit Free Press v Ashcroft](#), "Democracies die behind closed doors." Yet it is evident from the many layers of secrecy around Manning's arrest, imprisonment and prosecution that the government shows no sign of relinquishing its claimed powers to obscure rightfully transparent judicial proceedings. The doors appear to be tightly shut.

Unless we challenge the growing culture of secrecy within our government, and counter the ever-increasing, reflexive claims of "national security" by claiming our own constitutional rights, we risk finding those doors shut indefinitely.

- This article originally misstated that the pre-trial publicity order was not provided to the defense; in fact, it has not been provided to the press and public. The article was amended at 11am (EST; 4pm UK time) on 25 April 2012.

© 2012 Guardian News and Media Limited or its affiliated companies. All rights reserved.

;