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Radical Transparency in Geopolitical Economy: WikiLeaks, Secret Diplomacy and the Trans-Pacific Partnership Agreement

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Radical Transparency in Geopolitical Economy: WikiLeaks, Secret Diplomacy and the Trans-Pacific Partnership Agreement

Binoy Kampmark*

This paper addresses the emergence of various social movement challenges to concentrated state power that have taken place in the last 10 years, notably that posed by what might be loosely termed the radical transparency movement. This is best reflected by the work of WikiLeaks, a publishing outfit that emphasises scientific journalism and a form of radical transparency by publishing sensitive documents obtained through whistle-blowers.¹

It seeks to examine the role played by WikiLeaks in lifting the lid on clandestine discussions on such negotiated instruments as the Trans-Pacific Partnership Agreement (TPP), the Trade in Services Agreement and the Transatlantic Trade and Investment Partnership (TTIP), with the main focus on the TPP. These agreements, negotiated with minimal participation from the citizenry of negotiating states, suggest a grand capitulation to various centres of power, mainly of a corporate nature. Furthermore, it is a capitulation without broader public discussion. Seen as a unified whole, they also exclude the BRICS countries (Brazil, Russia, India, China and South Africa) while undermining sovereignty and the delivery of affordable public services.

This discussion, to that end, examines the political movement centred around targeting the non-transparent agenda on trade, spearheaded by the WikiLeaks publishing organisation, with specific reference to the TPP. It firstly considers the concept of “technospheric activism,” an ever increasing realm where battles over information take place through hacktivism. The place of radical transparency, the central ideology of WikiLeaks’ publication project, is then examined. The provisions of the TPP, gleaned from released draft chapters from the organisation, are also considered, followed by examples of public discussions and engagement in direct response to the releases.²

In doing so, the implications of emerging movements of civic power and accountability in influencing the global political economy are considered. This, it is argued, constitutes a test of will between the unaccountable corporate boardroom and the meeting hall of citizens; between the profit-based corporate interest and the welfare based public interest. The former is characterised by opaque, clandestine practice; the latter, by transparent availability of material for debate and deliberation.

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Technospheric activism

Central to understanding this movement of potential, redistributive power is the role played by the emergence of hactivism and technology. Utilising digital technologies has fostered greater means of access to classified materials outside traditional circles of information consumption. Governments, and various non-government entities, have traditionally handled information within closed systems, using various protocols of restrictive categorisation. Access entails limits; regimes of declassification are strictly policed via content scrutiny and time lines. One is never left in any doubt where the authority, in that sense, lies. Freedom of Information material, to take but one example, can be heavily redacted on release; public interest tests are deployed in the name of protecting the public's ignorance – they, it is suggested, should not know some material in their best interest (Carter and Bouris 2006).

The field of digital activism since the creation of social media platforms and the Internet has transformed approaches to these assumptions. Information is being disseminated, authorised or otherwise, at greater rates than ever before. Highly networked activism has seen vast amounts of information used ostensibly to expose various military-security-industrial complexes (Greenwald 2014). Anonymous, WikiLeaks, and a plethora of hactivist groups engage in vigilante publication and exposure of state and corporate secrets, with varying degrees of effect.³

Anthropologist John Postill posits that the work of such movements stems from various sectors. His ethnographic fieldwork has enabled him to examine a range of prospective ruptures in traditional power structures. He terms this the “mainstreaming of nerd politics”. The battle ground, or site, of change, is to be located in traditionally marginalised groupings who have been more centrally placed by virtue of the hyperlinking of the globe.⁴

The power structure evolves around considering various activist structures that lead, in turn, to a different sort of challenge to the power system. It involves an understanding of networks, the concept of which “has become an ideological construction within the context of social movements” (Barassi 2015: 50). To that end, the anthropologist of science Bruno Latour speaks of actor-network-theory (ANT) which considers the social from the perspective of a networked movement, involving a range of multiple interconnections of human and non-human actors. Even non-human features, objects, can be involved in action – all that modifies the state of affairs constitutes an actor (Latour 2005: 71; Barassi 2015: 51).

The value of ANT thereby brings technology and its effects into the realm of activism, which is thereby “naturalised” by a range of discursive practices that associate, for instance, the web to the pursuit of freedom; or social media to empowerment (Barassi 2015:51). The corollary of this is that of techno-utopianism, deemed a fundamental aspect of social theory in Western thought. Technological utopianism manifests as “the belief in the inevitability of progress and in progress precisely as technological progress” (Segal 1985: 1).

Ethnographic fieldwork has also yielded interesting results that show the emergence of such counter-hegemonic practices from activist groups which utilise various technologies. Postill's field work on Malaysian internet activism serves to show how various transformative effects can be had where “techno-libertarians” play a role. These constitute hackers, online journalists, technology lawyers and social media oriented citizens (Postill 2014a: 402). In a sense, the regional focus of his work is also interesting, given that Southeast Asia boasts something of a pedigree in this area. In 1989, mailing lists were already being used to protest against the Tiananmen Square massacre, showing a form of networked activism. In 1998, reformist movements were in full swing in Philippines and Indonesia. Mobile phones were extensively used in mobilising protests against Philippines President Joseph Estrada in 2001 (Rafael 2003).

Postill also goes further, articulating the term “freedom technologists” whom he regards as adept at utilising technologies for political change via specific protest formulas. He counters

the charges made by such individuals as Morozov and Skoric who deem them “techno-utopians or deluded ‘slactivists’” (Morozov 2013 and 2012; Skoric 2012). Instead, we face a “unique compound of societal forces and outcomes that characterises each protest movement – as well as each phase or initiative within a movement” (Postill 2014b: 402).

WikiLeaks has been deemed to be a boon for activism against clandestine corporate and government structures of power, utilising “principled leaking” of information irrespective of borders as fundamental to its purpose (Karhula 2011). In a broader sense, it has revitalised the anti-globalisation movement that stuttered in the aftermath of September 11, 2001. Individuals like Micah Sifry see in the organisation the creation of a “civic intelligence network” that short circuits the containing laws of any one State. “Not only is WikiLeaks not housed in the U.S., it isn’t housed in any single other nation the U.S. could complain to. They can defect at will” (Sifry 2011: 165). By its inherent nature, it means that the constitution of the body, and its modus operandi, is fundamentally radical.

The very idea of having such a system of information suggests a relocation of power in terms of access. It also poses the possibility of a revivification of the public sphere, using the Internet as an emancipative and communicative medium.⁵ Some of this is channelled into the reactions of the Arab Spring, when authoritarian regimes were challenged by mass protests informed by the WikiLeaks’ released US State Department cables. Some have gone so far as to ask the question whether this constituted Democracy’s Fourth Wave (Howard and Hussain 2013). Technology supplemented this in the form of “game changing” factors that effectively circumvented traditional, state-controlled media (Tufekci and Wilson 2012: 365).

In Tunisia, there was a proliferation of internet use, and the rise of “digitally mediated civic innovations” that took root over five years. New spaces for digital and public engagement could take place, largely facilitated by the technology available to a tech savvy populace hungry for information from uncensored sources. It was a movement Ben Ali, Tunisia’s strong man, found impossible to resist. WikiLeaks admitted to being important, but also conceded the overall journalistic role played by such organisations as Al Jazeera (Howard and Hussain 2013: 93). In other words, along with the profusion of Internet information systems came the media revolution, which effectively took place ahead of regulatory codes. Morocco, for instance, only had two radio and two television systems until 2006. This changed dramatically with a private radio and television environment (Howard and Hussain 2013: 94).

The place of radical transparency

If techno-radical activists are one part of the equation, radical transparency is their vital weapon.⁶ More information supposedly acts as a guarantor for freedom, the form of scrutiny needed to protect liberties. Opaque, bureaucratic regimes steeped in protocols of secrecy effectively estrange the public from political participation. The political and bureaucratic representative, paternalistically, keeps things from view, operating on a “needs to know” rationale. Hactivism, disclosure rules, and freedom of information all pose a general matrix on the release of information, but a more dramatic, even militant process of disclosure has been taking place.

Assange’s publishing philosophy, by its very nature, combats and scatters concentrations of secret information. It has historical resonances. One of Martin Luther’s most important arguments in confronting the Catholic Church, a truly hegemonic body in Western Christendom, was that its priests acted as unnecessary, even bureaucratic obstructions to the general, untrammelled worship of God.⁷ They had effectively constituted themselves as a layering of interpreters of scripture, restricting access to the divine. Assange’s argument, by way of comparison, suggests removing the hegemonic interpreting regime from the public sphere, thereby directing attention to citizens as unencumbered participants.⁸

What this entails is the deployment of transparency as a weapon. Transparency, argues Sifry, is a necessary “corrective” to the reach of excessive, unaccountable government power. Moving into a mild poetic gear, Sifry then explains that, “What we are pressing for is not the power to be Big Brother, watching everyone from above, but rather a flock of Little Sisters, watching government from below. All that the WikiLeaks phenomenon adds to that effort is the ability to share information beyond the control of any one government’s laws limiting that effort” (Sifry 2011: 164).

Some critics choose to see radical transparency in negative terms as an absolutist, total mechanism of opening all the closets and drawers, thereby destroying “anything found in its wake” (Brinkley 2013: 67). An illustration of this sentiment is provided by the director of the Federation of American Scientists Project on Government Secrecy, Stephen Aftergood, who argues that the WikiLeaks disclosures demonstrate a strategic error in deeming all secrecy problematic, while tactically denigrating whistle-blower protections.⁹ A far more nuanced and interesting discussion on radical transparency is offered in the work of Clare Birchall. Birchall is not seeking to condemn secrecy for its sake, or cloak it with venal connotations. She rather sees this as a matter of symbiosis between information access and secrecy proper. One needs the other, and all or nothing approaches should be eschewed. “We need to find different ways of staying with the aporia of transparency-as-secrecy and secrecy-as-transparency” (Birchall 2011 and 2014).

Arguments directed against the basis of radical transparency ignore the evolution of WikiLeaks in revolutionary information environment, and effectively concedes ground to the idea that State benevolence in terms of guarding secrets should be assumed, even in the presence of massive abuses, human right violations or deceptive economic practices. Such assumptions seem even more tenuous in an environment of hyper-connectivity. Archon Fung, in enunciating his own notion of democratic transparency, insists that the amount of information made available “should be proportionate to the extent to which those organizations jeopardise citizens’ interests” (Fung 2013). Birchall goes further, arguing that WikiLeaks offers another form of transparency that is appealing precisely because it “wrests transparency from the clutches of neoliberalism and refutes the traditional hierarchy between forms of disclosure” (Birchall 2014: 77).

Given the poor record trade agreements have in terms of delivering benefits that are optimistically promised as prophetic inevitability by state officials, benevolence should not be presumed, while the extent of jeopardy to citizens’ interests can be assumed. Analysis conducted on the implications of the Australian US Free Trade Agreement (AUSFTA) by the Australian National University this year suggests that both Australia and the United States actually reduced their trade with the rest of the world by a staggering \$53 billion.¹⁰ Preferential treatment for US goods, services and investment seemed to have one notable effect: diverting trade away from more efficient and competitive suppliers. All this took place despite extravagant promises made in advance of benefits to the citizens of the concerned countries.¹¹

Similarly, the North American Free Trade Agreement, signed into law by President Bill Clinton in 1993, has produced a range of uneven consequences. While there are expected disagreements among economists over what these have been, a good number point to the evisceration of local manufacturing and a thriving US trade deficit.¹² As ever, the prediction acts as the staying mechanism of belief. The economic star gazing Peterson Institute for International Economics (PIIE) saw an imminent trade surplus with Mexico, and 170,000 new US jobs by 1995.¹³ It took two briefest years to see a revised total of zero in terms of job growth. Mexico and Canada duly registered agricultural surpluses. US companies involved with food production and processing shot over to Mexico to the sound of money, capital migrating to areas of lower wages. But as dogma reasserts itself, Peter Peterson again promised the undeliverable: accurate projections about job and export increases with the TPP.¹⁴

To therefore keep such discussions, ones which will affect twelve States across the Asia-Pacific region, totally clandestine for the sake of treasured “diplomatic space” is a highly questionable approach. Historical precedent supplies, more than ever, the need for critical, public engagement over the implications of such agreements. Questionable policies pursued by representatives who are, for all intents and purposes, effectively bargaining away vital areas of sovereign accountability and control, suggest the need for informed debate. But treasured secrecy around the TPP is still insisted upon by the traditionalists, who see tactical need for strategic effect. “Exposing the US bargaining positions or the offers of foreign counterparts to public view before the agreement is completed,” asserts Ruth Marcus, “would undermine the outcome.”¹⁵

Marcus’ scepticism about such debate has not prevented a very active discussion taking place among observers of internet regulation, health care, labour standards and the environment. Organisations have made use of the WikiLeaks draft chapters of the TPP, garnering support for protest and dissent. But what, exactly, were they so concerned about?

The TPP as a Case Study

On November 13 2013, WikiLeaks released the draft text of the entire Intellectual Property Rights Chapter of the TPP, otherwise known as the Trans-Pacific Partnership. It had come some way since March 2008, when the US first entered into negotiations for such an agreement. As noted in the preamble, “This chapter published by WikiLeaks is perhaps the most controversial chapter of the TPP due to its wide-ranging effects on medicines, publishers, internet services, civil liberties and biological patents.”¹⁶

There have been up to 19 rounds of formal negotiations with the last session finalising the text at Atlanta (September 30 to October 5, 2015). While three draft chapters were duly released since 2013, 26 chapters of the deal remained undisclosed till the conclusion of the agreement itself. According to WikiLeaks, the TPP is the “icebreaker agreement” for what will be a “T-treaty triad” comprising the TPP-TISA-TTIP that would replicate a similar body of rules to apply to 53 states, 1.6 billion people and two-thirds of the global economy.¹⁷

Importantly, politicians and representatives of the 12 countries were sworn to secrecy in dealing with the document, with access only granted under strict and limited conditions in 2015. Australian politicians were told that they might see the text of the deal provided that they sign a four-year confidentiality provision on its contents.¹⁸ Members of the US Congress were similarly allowed to consult the contents of the document, but not discuss them publicly. Senator Elizabeth Warren’s assessment of it has been dire: “[They] can’t make this deal public because if the American people saw what was in it, they would be opposed to it.” But even Warren, having seen the document, would remain tight-lipped.¹⁹ A similar point can be made about the Florida US House Rep. Alan Grayson who had also seen a variant of the TPP in 2013, but suggested even then that the agreement “hands the sovereignty of our country over to corporate interests.”²⁰ Others have similarly argued that the TPP is “NAFTA on steroids”.²¹ Billionaire and former U.S. Presidential candidate Ross Perot suggested that if such an agreement were to be implemented, a “giant sucking sound” would be heard as millions of jobs would leave the country.²²

The three leaked chapters were the Intellectual Property (IP) chapter (released November 2013), the Environment Chapter (released January 2014) and the Investment Chapter (released March 2015). Importantly, these releases built on a vast array of work by a plethora of organisations that had also generated a counter-movement against the TPP negotiations.

WikiLeaks, while a prominent catalyst, was far from the only one in what had become a grassroots mechanism of activist agitation. The Citizen’s Trade Campaign in 2011 was particularly active on leaks detailing negotiations on pharmaceuticals and the proposed

reversing of drug formulary policies that had been put in place under the Bush administration in 2007. “This is a new proposal,” argued the CTC in October 2011, “to empower pharmaceutical firms to attack the medicine formulary systems that New Zealand, Australia and other countries have used so successfully to reduce sky-high drug prices.”²³

All the released chapters featured strong corporate rationales. Pharmaceutical companies are to be treated as potential victims, able to seek compensation, in the form of patent term extensions, for delays in the grant or in the marketing approval process. Corporations can seek compensation for public policies inimical to their profits. Manufacturers of generic drugs became putative targets, as they might be refused using previous data on trials to manufacture cheaper alternatives.

The Intellectual Property chapter, deemed by WikiLeaks to be filled with “euphemistic officialese” and “layers of technical glaze”, was one of the most contested.²⁴ Objections by various negotiating parties were highlighted. Japan wished for a “Patent Prosecution Highway”. Countries like Peru demurred.

On October 9, 2015 the third and final version of the intellectual property chapter of the TPP was released by WikiLeaks, recapitulating initial fears. The organisation, on this occasion, also released a range of “expert analysis” incorporating extensive NGO critiques from the Third World Network and Public Citizen.²⁵ The agreement allows signatories to restrict information through trial proceedings that would be “detrimental to a party’s economic interests, international relations, or national defence or national security”. Signatory states already have similar domestic restrictions designed to curb such information mechanisms as freedom of information.

As for how long such copyright terms would run, a protection period of 70 years was offered after performance or publication, and if not published within 25 years after creation, for 70 years after that creation. Better, though not by much, than the absurdly lengthy 120 year period initially proposed by the US Trade Representative.

The point on biologics was arguably even more problematic, with the text requiring TPP signatories “to stop generic versions of biologic medicines (‘biosimilars’) from being available to patients, even when there is no patent or beyond the term of a patent.”²⁶ TPP countries could either grant eight years of market exclusivity (or protection from competition) from the date of the biologic’s approval in the relevant state, or five years from the date of the biologic’s approval by that relevant state coupled with other measures to produce a comparable market outcome.²⁷ US trade officials had been pressed by American biopharmaceutical companies for an even lengthier 12 year period of market exclusivity.²⁸

The environment chapter, released on January 15, 2014, revealed a series of measures that constitute, in the words of Assange, a “public sweetener” that is merely “a toothless public relations exercise with no enforcement mechanism.”²⁹ The draft documents showed a dilution of commitments, a lowering threshold in terms of insuring international standards for environmental protection. As reported in the *New York Times*, “The Obama administration is retreating from previous demands of strong international environmental protections in order to reach agreement on a sweeping Pacific trade deal that is a pillar of President Obama’s strategic shift to Asia”.³⁰ There are, for instance, no legally binding pollution control requirements. There are no bans on the harvesting of some animal species. And there are mild approaches to restricting logging practices.

The Chairs’ Report of the Environment Working Group further outlined areas of vast disagreement. “Nevertheless, while the Chair sought to accommodate all the concerns and red lines that were identified by the Parties regarding the issues in the text, many of the red lines for some Parties were in direct opposition to the red lines expressed by other Parties.” Such clashes “prevented the Environment Working Group from reaching agreement on all aspects of the Chapter.”³¹

Disagreements were strongly evident over how multilateral environmental agreements were to be addressed. Definitions over such matters as statute or regulation were also challenged. Nor could the US agree to Article 13 covering Trade and Biodiversity as “it is not a party to the Convention on Biological Diversity.” Other states, including Vietnam, Peru and Malaysia, refused to accept references to fossil fuel subsidies under Article 15 covering trade and climate change. Their opposition proved so influential that any reference to climate change was removed in the final TPP text. Restrictions on fisheries were also contested.

A survey of a few sections of the consolidated text serves to prove the point. Article 3 as released spoke of “general commitments” about recognising “the importance of mutually supportive trade and environmental policies and practices to improve environmental protection in the furtherance of sustainable development.” Crucially, paragraph 2 of the same section acknowledges “the sovereign right of each Party to establish its own levels of domestic environmental protection and its own environmental priorities, and to set, adopt or modify accordingly its environmental laws and policies.”

Article 8, covering Corporate Social Responsibility, advocates that parties to the agreement “encourage enterprises operating within its territory or jurisdiction, to adopt voluntarily, into their policies and practices, principles of corporate social responsibility related to the environment, consistent with internationally recognised standards and guidelines that have been endorsed or are supported by that Party.” An atmosphere of voluntary compliance prevails, suggesting that polluting entities can hope, at worst, to receive a slap on the wrist.

The Investment Chapter provides the ultimate anti-citizenship rationale.³² It is purposely engineered to avoid citizen engagement, focusing on a supranational imposition of legal reviews favouring corporate entities. Foreign corporations may use investor-state dispute settlement (ISDS) mechanisms that effectively supplant domestic courts in favour of profit protection. The draft itself outlines the role of the International Centre for Settlement of Investment Disputes.³³

Galvanising activism: Anti-TPP groups

The response to the TPP disclosures can be gauged at various levels of opinion formation. Those inclined to specialist analysis could be found in traditional academic publications, combing through the technical implications of the agreement. But similar views were more broadly disseminated through popular presses. The disclosed documents also became the focus of public interest groups and NGOs in various TPP countries with an interest in pushing their critiques around specific provisions, be they on labour rights, agriculture, consumer matters, currency, environment, the Internet itself, textiles, tobacco, and human rights.³⁴ The final level of response here came in the form of political response, notably the Australian election of September 2013.

As intellectual property law expert from the Queensland University of Technology Matthew Rimmer explained that the draft reflected core trade objectives of Washington and US multinationals “with little focus on the rights and interests of consumers, let alone broader community interests”.³⁵ “The document,” ventured Miriam Bitton, “is very informative because it details which negotiating countries proposed specific articles and which countries opposed them.” It also outlined the various philosophies at stake – the return, for instance, to narrow reading of trade-related aspects of intellectual property rights (TRIPS), and an emphasis on rigorous enforcement of copyright protection through criminal prosecution and penalties notwithstanding an absence of malice or financial gain. “The leaked TPP shows that the United States is pushing for a stricter approach to intellectual property rights, while most of the other countries propose a more flexible approach.”³⁶

Specific areas of concern were noted. Medical journals such as the *Lancet* reported concerns about how the TPP would drive up the price of drugs while weakening the overall effectiveness of health services.³⁷ Two further texts in the same publication drew attention to the TPP's threat to the provision of affordable health care, equitable health regimes, and environmental laws protecting public health.³⁸

Commentary in some of the main presses suggested that the level of secrecy was unacceptable and damaging to concepts of political accountability. Margot E. Kaminski, writing in *The New York Times*, noted that, "The initial version of an agreement projected to affect millions of Americans will remain a secret until long after meaningful public debate is possible."³⁹

Other media outlets took note about various specifics, including negotiating stances revealed in the releases. What was unfolding was a public examination of diplomatic disagreements and concessions, an unprecedented process of scrutiny. The *New Zealand Herald* commented on its country's negotiators being "in serious dispute with US negotiators on many issues [regarding the TPP]." Among them included "internet freedom, access to affordable medicines, protection of New Zealand industrial innovation and ownership of native plants and animals." Disagreements in numerous instances warranted discussion, with New Zealand opposed in a majority of positions in 250 references touching on pharmaceuticals and the requirement that internet service providers enforce copyright on behalf of foreign corporations and extending royalty payments on all books, music and movies for 20 years longer than current arrangements.⁴⁰

The near peerless Electronic Frontier Foundation, with its various global branches, combined specialist analysis with more approachable content, warning of grave implications to freedom of speech, due process, and technological innovation. Two core problems were identified by the organisation: IP restrictions, and a persistent, chronic lack of transparency. In terms of the first, "the IP chapter would have extensive negative ramifications for users' freedom of speech, right to privacy and due process, and hinder peoples' abilities to innovate." The second was characterised by a grand "shut out" of "multi-stakeholder participation."⁴¹ Knowledge Ecology International reiterated similar grounds of concern on what the agreement would do to "a free and open Internet."⁴²

Australian citizens unaccustomed to the politics surrounding trade were invigorated by the released documents, and inspired by the electoral campaign of the now defunct Wikileaks Party (WLP), created in April 2013. In the party's official statement on transparency, it was stressed that, "truthful, accurate, factual information is the foundation of democracy and is essential to the protection of human rights and freedoms. Where the truth is suppressed or distorted, corruption and injustice flourish."⁴³ Despite not winning a Senate seat in any of the Australian states it chose to run candidates in, the WLP left a questioning legacy among constituents keen to question otherwise secret agreements being made by officials in Canberra.

Franco-Australian activist Monique Monnier, who has, along with the Goldstein GetUp group, attempted to lobby the Australian Trade Minister Andrew Robb about details of the TPP, provided a clear example of active engagement referencing the WikiLeaks materials. The demographic of her constituency is worth noting – well-heeled, and representative of a traditional conservative parliamentary seat in the Australian House of Representatives. "Although I (along with another team member associated with me on this topic) do not have any Legal or Economic background, I have selected to research and enquire about the TPP as its implications and consequences, if passed, look very scary (a bit of a euphemism)."⁴⁴

Monnier made direct reference to the revealing nature of the WikiLeaks documents, seeing the released chapters as casting worthy light over an otherwise dark field of unaccountable power. The words are moving, if only because they reveal how inscrutable such documents might be deemed. "The only information we have found," she notes in an email to

the author, “are the very helpful release of some draft documents by WikiLeaks. We have decided to narrow down our research/queries on the IP and Environment draft documents.”⁴⁵

In the Australian context, a range of community groups were also actively engaged in debating and disputing the various implications of the TPP and its secretive context. The unofficial Health Impact Assessment featured a large number of NGOs and academic commentary concerned with health, with a heavy focus on previous leaked drafts from WikiLeaks.⁴⁶ Based on that documentation, the authors concluded that the TPP risked increasing the cost of pharmaceuticals which would increase out-of-pocket expenses for medicines. This would, in turn, affect the vulnerable segments of society, resulting in declining health, increased hospitalisation and “premature or preventable mortality.”⁴⁷ The report’s dire findings became a matter of national coverage.⁴⁸

A slew of internet sites of protest sprung up with the express purpose of exposing and critiquing the TPP, pivoting on the information disclosed by WikiLeaks. PopularResistance.Org has been consistently engaged, linking a swathe of organisations dedicated to discussing the finer, more concerning points of the proposed agreement.⁴⁹ The substance of such discussion has been almost exclusively focused on two things: the otherwise bereft content available to the public, kept secret from prying eyes; and the principle behind not discussing such a vital document in the public domain.

On the release of the chapters via WikiLeaks, various public action groups undertook to provide highly critical interpretations, among them the Public Citizen’s Global Trade Watch.⁵⁰ A range of information samples are detailed, based predominantly on the text chapters made available by WikiLeaks. These include material specific to the Stop Online Privacy Act (SOPA), a measure that failed in Congress largely for its emphasis on compelling internet service providers to censor (that is, police) sites deemed in copyright violation.⁵¹

Exposethetpp.org proves even more dramatic in its direct activism, featuring a virtual wall of photographs with individuals brandishing outstretched palms marked by slogans and words. They feature various terms: “transparency policy,” “American Jobs,” “Public Health.” “Stop Corp Power Grap,” “Internet Privacy” and “Access to Medicine.”⁵²

Rallies and co-ordinated protests have also been directed in various TPP negotiating countries. In the US, Bill Moyer, Executive Director of the Backbone Campaign had firm words in propelling his group’s protest: “Only a bought and sold government would sign a treaty that sacrifices our capacity as communities and country pass laws for workers benefit, and the protection of our communities and our natural resources.”⁵³ The document revelations provided an opportunity to engage in a “coordinated day of action”, which followed “on the heels [sic] of an action in September when to the surprise of secret service members and the allies of PopularResistance.org and the Backbone Campaign ‘redecorated’ the United States Trade Representatives’ office by scaling the building and unfurling giant banners demanding a release of the TPP text. The Backbone Campaign is grateful to WikiLeaks for beginning that process.”⁵⁴

Ahead of the finalisation of the agreement in Atlanta, street protests were arranged. In January this year, protesters in Washington attempted to initiate what news reports claimed was a “hijack” of a hearing before the Senate Committee on Finance by US Trade Representative Michael Froman. “We know,” exclaimed one of the protesters, “that the TPP has been negotiated in secret for five years. You’re trying to rush it through Congress and fast track it because its secret and you know that the things in there are going to hurt the American people.”⁵⁵

In August 2015, thousands of protesters marched in New Zealand, gathering at such spots as Auckland’s Aotea Square asking such questions as “Who’s got the power?” with the inevitable reply, “We’ve got the power!” The ultimate object of the protest was the US Consulate building on Queen Street. The US consulate, in response, emailed American citizens resident living in New Zealand urging “citizens to avoid the protest march route as even demonstrations intended to be peaceful can turn confrontational. We remind citizens to always exercise caution when in vicinity of any large gatherings, protest or demonstrations.”⁵⁶

Protests also took place across 21 cities, with notable turnouts in Christchurch, Hamilton and Dunedin. This was perhaps unsurprising – New Zealand’s negotiators had been some of the most confronting regarding Froman’s various positions. Estimates of numbers vary, with some coming up to 25,000 people. Taking directly WikiLeaks’ message on the subject of making the TPP transparent, documentary film maker Bryan Bruce, in addressing protesters in Wellington, called for making “The TPPA document available for public examination before you sign it – not after.”⁵⁷

Not wishing to remain distant in the evolving discussions, Insisting on radical transparency, WikiLeaks, as an incentive, began a novel form of protest using crowd source funding for \$100,000 for anybody with the means of securing the contents of the entire document.⁵⁸ “The TPP bounty also heralds the launch of WikiLeaks new competition system, which allows the public to pledge prizes towards each of the world’s most wanted leaks. For example, members of the public can now pledge on the missing chapters of the TPP.”⁵⁹

A similar crowdsourcing project is also in progress for the contents of the Transatlantic Trade and Investment Partnership, with a set target of 100,000 Euros. High profile activism has featured in the initial pledges, with contributions from former Greek Finance Minister Yanis Varoufakis, UK fashion designer and environmental campaigner Dame Vivienne Westwood, Glenn Greenwald of *The Intercept*, film maker and journalist John Pilger, Pentagon Papers whistle-blower Daniel Ellsberg, and Belarusian philosopher of the internet, Evgeny Morozov.⁶⁰

The final release

In early November, signatory governments released the full text of the document they had agreed to in Atlanta.⁶¹ Froman, somewhat disingenuously, insisted that the process had been “transparent” from the start. This ignored the influence of Congress, which successfully passed cautionary legislation leaving the final document to be perused ahead of actual ratification by the President. (This is not to ignore that some members of Congress effectively signed away their rights to amend or filibuster the final legislation by granting the fast track on negotiations.)

A range of concerns that had been registered by the plethora of organisations in this discussion directly found voice among concerned US representatives. Others, however, were troubled that the agreement did not go far enough in protecting the pharmaceutical interests of their own country. Senator Orrin Hatch of Utah, most prominently vocal from that perspective, pointed out the problems of the Intellectual Property chapter, which he felt had been too compromising in *not* allowing for a twelve year protection of drug monopolies. “I understand that renegotiation may be difficult, particularly with so many parties involved. The alternative to renegotiation may very well be no TPP at all.”⁶² Others had doubts about the protection of labour rights and food safety regulations that might be challenged in other countries’ courts.⁶³

Such concerns were beginning to tell on various members of the Washington establishment. Democratic Presidential contender Hillary Clinton publicly took a stance against the TPP in October, though her opposition was tempered by qualifications.⁶⁴ Rival candidate and Vermont Senator Bernie Sanders proved the more consistent candidate, continuing in the same vein as his anti-NAFTA stance. “The TPP is a treaty that has been written behind closed doors by the corporate world.”⁶⁵ The agreement had effectively migrated from the margins of clandestine consolidation, prized open to no small degree by WikiLeaks, to the mainstream of engagement and deliberation.

Outcomes of digital activism

Ezra Klein, on examining research by Yale Law Professor Dan Kahan, has argued that more complete information does not necessarily lead to better understanding. “More information... doesn’t help sceptics discover the best evidence. Instead, it sends them searching for evidence that seems to prove them right.”⁶⁶ There will always be scepticism about causation – more information need not necessarily lead to improved environments of accountable practice. Digital and information saturation a good citizen does not necessarily make. There will always remain some scepticism about whether the public sphere has been truly boosted by a globalised community of concern rather than, as Habermas fears, fragmented “isolated issue publics” (Habermas 2006: 423).

The WikiLeaks example, oiled by its philosophy of radical transparency, has provided a strong counter-point, suggesting that techno-activism, making diplomatic sources globally available, can influence international public debate. At the very least, it can trigger awareness about complex, secret negotiations that may impact on the commonweal. Citizens, after all, stand to be the most effected. “Only through WikiLeaks,” claimed environmental activist George Monbiot, “do we have any idea what is being planned.”⁶⁷ How such activity filters into an alteration of policy is another matter. It may also be stretching it to term this a redistribution of power to a revitalised public sphere.

For all that, there is little doubt that such activism, featuring according to Citizens Trade Campaign the opposition of over 1,500 organisations, mitigated some of the more oppressive provisions in the final text.⁶⁸ While beyond the scope of this paper a few examples can be noted. The biopharmaceutical lobby, so dominant in Washington, failed to achieve its data exclusivity term of twelve years on biologics. The potential anti-sovereign impacts of the investor-state dispute process in terms of challenging health policy, a legacy of previous free trade agreements, was also curbed in the final text.

The more salient point is that citizens have an informed choice, to be active in contributing to the discussion as much as they wish. To adapt Postill’s words, we have borne witness to a set a unique compound of societal forces which have characterised a very specific social protest movement.

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Notes

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² Given the number of countries involve – twelve in total – only a rough sampling of cases from organisations, activists and publications is possible.

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⁴ For case studies, see John Postill, *Localizing the Internet: An Anthropological Account* (Oxford: Berghahn, 2011) comprising fieldwork on Internet activists in Malaysia.

⁵ See Terry Flew and Bonnie Rui Liu, "Who's a Global Citizen? Julian Assange, WikiLeaks and the Australian Media Reaction," Paper presented to Australian and New Zealand Communication Association (ANZCA) 2011 annual conference, *Communication on the Edge: Shifting Boundaries and Identities*, University of Waikato, Hamilton, New Zealand, Jul 6-8, 2011. For discussions on the public sphere as democratic communication and participation, see Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a category of Bourgeois Society* (Cambridge, MA: MIT Press, 1989).

⁶ For discussions about transparency and its theoretical applications, see Stephen Kosack and Archon Fung, "Does Transparency Improve Governance?" *Annual Review of Political Science* 17 (2014): 65-87; Archon Fung, "Infotopia: Unleashing the Democratic Power of Transparency," *Politics & Society* 41, 2 (2013): 183-212. Fung's emphasis, however, is on a milder, though still important version of transparency, what he terms "democratic transparency."

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