

Between transparency and surveillance: Politics of the secret

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Abstract

The recent wave of whistleblowers and cyber-dissidents, from Julian Assange to Edward Snowden, has declared war against surveillance. In this context, transparency is presented as an attainable political goal that can be delivered in flesh and bones by spectacular and quasi-messianic moments of disclosure. The thesis of this article is that, despite its progressive promise, the project of releasing classified documents is in line with the Orwellian cold war trope of Big Brother rather than with the complex geography of surveillance today. By indicting the US federal government as the principal agent of surveillance, the 'logic of the leak' obfuscates that today's surveillance is conducted mostly by the private sector in the form of dataveillance. What should we think, then, of this new fetish of transparency? Is it a symptom of the castigation of a desire for surveillance, the wish to be constantly observed and closely inspected? I claim that the meaning of the 'expository society', as Bernard Harcourt calls it, depends on how we interpret secrets. For secrets are not only temporary conditions of occultation that can, and should, be indiscriminately exposed, but sites of agency. In this perspective, the emancipatory promise hangs on the right to the secret, assumed as the right not to answer and not to belong.

Keywords

Logic of the leak, politics of the secret, Edward Snowden, surveillance, transparency

In the dystopian society depicted in George Orwell's *1984*,¹ citizens know that they are being closely monitored and controlled. According to Orwell's influential interpretation of what constitutes surveillance, to be the object of monitoring is to know that one's every action is observed, recorded and evaluated by an all-powerful sovereign authority. The literary trope of Big Brother, the Stalinesque male character plastered on the walls of

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all major intersections of Airstrip One, the country formerly known as Great Britain, is a kind of Leviathan in the tradition championed by Thomas Hobbes.

As the terrifying specter of Big Brother is reawakened by whistleblowers and cyber-dissidents worldwide, the question of its status in the context of what constitutes surveillance today is too rarely asked. For example, does the experience of living under surveillance have the de-realizing effect that Orwell describes, so that the full parameters of visibility are reserved to the agents of monitoring, who track others while remaining protected from their gaze? And is fear, which makes the main character of 1984 see the world in black and white, the most distinctive response to surveillance? What if it was the opposite: that being the object of surveillance increased, rather than decreased, the intensity of sensation? What if there was instead a secret desire for surveillance and that such desire made so many of us expose ourselves, day in and day out, to the gaze of known and unknown others, on Facebook, Instagram and Snapchat? What if the war against surveillance was the symptom of an oblique castigation of our society's unspeakable drive to self-exposure, of its unquenchable desire to be looked at, minutely inspected and permanently followed?

This is the hypothesis taken up by Bernard Harcourt, who sees exhibition and watching as the prevalent modes of the contemporary experience of the world.

The new expository power circulates by means of a new logic, a new form of rationality. It is a data-driven, algorithmic searchability that constantly seeks to find, for each and every one of us, our perfect match, our twin, our look-alike, in order to determine the next book we want to buy, the person we would like to resemble, the perfect answer to our question, the conspiracy we intend to join.²

Harcourt sees this new architecture of power relations as serving a '*doppelgänger* logic', which is ruled by a principle of digital, or virtual, transparency. 'Virtual transparency is now built in the technology of life, into the very techniques of living and it makes possible an individually targeted gaze that pierces through populations.'³

Harcourt's notion of virtual transparency complicates the picture of what constitutes surveillance, as we are '*knowingly* exposing ourselves. The relation of power is inverted: we digital subjects, we "data doubles," we *Homo digitalis* give ourselves up in a mad frenzy of disclosure.'⁴ In contrast to Harcourt's analysis, the picture of surveillance that undergirds the project of releasing classified documents, started by WikiLeaks in 2006 and expanded by Edward Snowden in 2013, is more in line with Orwell's cold war sensibility than with the complexity of the expository society. I will point out how this Orwellian interpretation of surveillance relies on an *instrumental conception of the secret* as intentional occultation of either a factual or a documentary truth. I will also point out how this instrumental conception of the secret, which is heavily indebted to a theological conception of sovereignty, assumed as indivisible, ubiquitous and all-knowing, is highly problematic from the standpoint of deliberative democracy. If it is evident that secrets accumulated by unlawful surveillance have corroded and even threatened civil liberties, especially in the security whirl that followed the attacks of 11 September 2001, totalitarian practices have historically had minimal tolerance for what I will call the right to the secret. To resist the totalitarian drift of our supposed

democratic polities, which is more powerfully experienced from those located at its social and economic margins, my claim is that we need to maintain a right to the secret, a right to invisibility, assumed as neither occultation nor encryption. This is the right not to answer and not to belong.

In Herman Melville's short stories, 'Bartleby the Scrivener: A Story of Wall Street'⁵ features the life of an anonymous law firm employee named Bartleby and his rise to icon of what I dare call 'embedded resistance'. From a position of utter invisibility, which being a cog in the machine had earned him because of his cooperation and reliability, we follow Bartleby through a journey of implosion: by never leaving his office, eating and sleeping around his desk, this once model employee is transformed into an agent of 'occupation'. As Bartleby sinks deeper into withdrawal, he becomes both more visible in the eyes of his boss and more unreadable. 'I prefer not to' is his motto, which he repeats tirelessly as he progresses on his secret path away from Wall Street, which is also a journey into the secrecy of non-belonging. The fact that Bartleby had worked for years in the office of dead letters, where the missives that no one can receive get stranded, adds a spectral strain to Melville's story as a model of the ultimate secret of agency.

My conclusion is that the politics of the secret needs to remain open to the possibility that the secret may not be fully revealed. Or even better, that revelation is not what the secret is about. Like texts, secrets may not be revealed or decrypted by the exposure of a perfectly illuminated truth, but their threads need to be teased out and articulated through the endless, and very patient, practice of reading and interpretation. Like specters, secrets exist in multitudes and for multitudes. A secret calls by definition for a secretive web of responses that are meant to be shared by more than one person. Secrets thus secrete secrets and form clusters of secrecy: 'one secret is at the same time enclosed and dominated by the other'.⁶ This is perhaps how we can interpret what Jacques Derrida alluded to when, he spoke of literature as 'the experience of a *secret* without depth, a *secret without secret*'. It is the emptiness of the secret, and not its content, that has the power to 'impassion' us.⁷ To protect democracy is to remain committed to justice, the ultimate secret.

Old and new surveillance

In the darkest moment of the second term of George W. Bush's presidency, WikiLeaks, an online international non-profit organization, originally incorporated in Iceland and founded by the Australian Julian Paul Assange, began publishing classified information and news leaks from anonymous sources. Within a year, more than 1.2 million documents were released to the public. But it was during the first Obama administration that WikiLeaks got the center of the global media stage. In a crescendo of visibility, WikiLeaks posted the footage of a 2007 Baghdad strike, entitled 'Collateral Murder', in which Iraqi journalists as well as civilians were killed and US marines spoke callously of their victims while they remote-controlled the strike. The so-called Iraq War Logs soon followed, a set of almost 400,000 documents, which allowed the mapping of 100,000 deaths in attacks by insurgents. Then came 779 secret files relating to prisoners detained in Guantanamo, revealing the detention without charges of 150 innocent Afghans and Pakistanis, and finally, a trove of US State Department diplomatic cables,

which embarrassed the US government and sowed considerable fear that lives would be endangered as a consequence.

WikiLeaks acquired most of these videos and files, the largest set of classified documents ever leaked to a news organization, from Bradley Manning, now a transgender woman known as Chelsea Manning, who was a US army soldier stationed in Iraq, later convicted for treason, and whose very treatment behind bars became a WikiLeaks *cause célèbre*.

Just as the WikiLeaks scandal was receding from the news, Edward Snowden, a former CIA system administrator and counter-intelligence trainer at DIA (the Defense Intelligence Agency), who had been working for a CIA contractor in Hawaii, began leaking classified information concerning the National Security Agency, revealing a number of global surveillance programs, many of which were run by the NSA with the cooperation of American and multinational telecommunication companies as well as European governments. The most publicly debated Snowden leak, which government officials have acknowledged and defended, involves the collection of records of virtually every call placed within, to and from the United States. Snowden leaked a secret court order demanding that the US cable and phone giant, Verizon, turn over its records to the NSA.

The fact that the most prominent of Snowden's leaks continues to be described as the revelation of a systematic 'wire-tapping' invokes images of classic Big Brother governmental surveillance. The secret Snowden revealed is that the NSA had been surreptitiously collecting all kind of information about telephone calls, except the word-by-word content of conversations, and had been using this meta-data to track down connections between people, the recurrence of their calling each other, the duration of the calls and the location of the callers.

While the language of 'surveillance' dominated both the media coverage and also the declarations stemming from Snowden and his circle, the massive leak trail initiated by WikiLeaks should be discussed as a case of *dataveillance*, which is the systematic use of personal data in the investigation and monitoring of individuals or populations. A telling example of the public outrage that followed Snowden's leak is well illustrated by an op-ed that appeared in *The New York Times* on 11 June 2013. By 'using such data', the anonymous editorialist wrote, 'the government can discover intimate details about a person's lifestyle and beliefs – political leanings and associations, medical issues, sexual orientation, habits of religious worship, and even marital infidelities ... The effect is to undermine constitutional principles of personal privacy and freedom from constant government monitoring.' This 'fundamentally alters the relationship between individuals and their government'.⁸

This conclusion is the swan song of a waning and overly idealized conception of agency. Not only does the notion of omniscient visibility structure the field of many disciplines, policies and tools broadly employed by the natural and social sciences: urban planning, statistical projections and advertising campaigns all rely on total visibility to function, effectively deploying forms of surveillance. But we encounter the practices of unseen observation on a daily basis: beneath the CCTV cameras, which physically punctuate our public space, and on the telephones of the call centers, which may be located on national territory, under the jurisdiction of a government we know, or under a government we do not know, if they, as it often occurs, are outsourced to the lowest bidder.

If dataveillance truly alters the nature of the relationship between individual citizens and their governments, then we should expose the secrets of market analysts, whose project is to monitor, in order to anticipate and even engineer, trends of consumption. Following the same line of argument, we should also unmask the surveillance carried out by the entertainment industry, which meticulously oversees every choice we make on Netflix or cable television, and, finally, we should demand a higher level of transparency from the medical establishment, which is suffused with high-tech applications that employ the transnational processing of sensitive information, including telemedicine and e-health systems. The global circulation, analysis and commercial exploitation of personal data constitute the background against which the question of dataveillance is to be asked. As David Lyon writes: '*Big Brother* is now a television trope for late modern unrealities that serves to domesticate and justify surveillance to both watchers and the watched.'⁹

The Orwellian model of top-down surveillance that governs the discourse of whistleblowers and cyber-dissidents, from Assange to Snowden, still draws a sharp distinction between the agent and the object of surveillance, mapping them onto highly polarized active and passive roles, suggesting a definite perpetrator and a vulnerable victim. But does this dualistic framework faithfully describe both the subjective and objective experiences of the leakers and their publics?

In 2014 Snowden was a 29-year-old techie, who grew up on YouTube and reality television shows like *Survivor*, in which ordinary people are encouraged to wear their hearts on their sleeves. It seems only fair to critically reflect on the emotional and moral indignation raised by the exposure of personal information. Social networking sites as well as web blogs and webcams have made surveillance of otherwise unknown individuals available through texts and images that used to be part of one's private sphere. In recent years, the propagation of portable technology of surveillance has so deepened and expanded monitoring that a new term has been coined: *sousveillance*, or subveillance, which is the recording of an activity by a participant in that activity, typically by way of small wearable or portable personal devices. While the recording is generically consensual, the use and interpretation of the collected data from platforms such as the apps detailing our daily physical exercise is not at all regulated. This is why, along with other theorists including Kevin Haggerty, I believe that surveillance has undergone

... a qualitative transformation from routine recording and analysis of aggregate trends to a motivated scrutiny of the documentary traces and data doubles ... the multiplication of sites of surveillance ruptures the unidirectional nature of the gaze, transforming surveillance from a dynamic of the microscope to one where knowledge and images of unexpected intensity and assorted distortions cascade from viewer to viewer and across institutions, emerging in unpredictable configurations and combinations, while undermining the neat distinction between watcher and watched.¹⁰

The point stressed by Haggerty is that surveillance is much larger than the dynamic of the microscope. Whether we speak of dataveillance or subveillance, the potential monitoring based on the collection of data is a splintered surface, in which the boundaries of all classifications are stretched beyond recognition. The sheer complexity of surveillance, as manifest in the multiplication of its aims, agendas, institutions, operational forms,

objects and agents, makes it closer to an emerging process in which documentary traces and data doubles crystallize in strata and clusters that lend themselves to being organized and reconfigured in multifaceted constellations of significance.

The hacktivists' conjuration of the specter of Big Brother may thus be a distraction from, if not a displacement of, the real and present challenge of surveillance today, which is both a practice of watching and the expression of a desire to be watched, and thus a radical blurring of the distinction between watcher and watched.

What is the significance of this avoidance since not only hacktivists and whistleblowers but also the intense media attention they have received since 2006 align with such anachronism? The logic of the leak is one that identifies the defining human struggle not as left versus right, or faith versus reason, but as individual versus institution. In an early manifesto composed before he founded WikiLeaks and entitled 'Conspiracy as Governance', Assange wrote that illegitimate governance is by definition conspiratorial, the product of functionaries in 'collaborative secrecy, working to the detriment of a population'.¹¹ This is a statement of stunning eccentricity given that contemporary surveillance is conducted by multiple and very different agents, state and non-state actors, local and global agencies, for a variety of purposes.

The plea of today's whistleblower is to engage the government as the entity carrying the largest burden of responsibility with respect to surveillance. This is not a matter of nostalgia but a symptom of the neo-liberal establishment, whose policies of austerity and the indictment of governments are grounded in the libertarian fantasy of the radically autonomous self: the view that human agents initially own themselves. Their independent moral powers entitle them to acquire, maintain and defend property rights in the material world.

In this perspective, *The New York Times*' outrage at the fact that the NSA was granted access to the telephone records of ordinary citizens, so that the government could discover intimate details about their lifestyle and beliefs (including marital infidelities), is the reflection of this fantasy. The editorialist's conclusion that this fact 'fundamentally alters the relationship between individuals and their government' is implicitly making the government into the principal agent of surveillance, which means to agitate the libertarian specter.

Wikiangels and Wikiwriting

The cold war tone of the discourse both of the whistleblowers and of their media representation has a messianic underpinning. Individuals envision themselves as messengers of self-evident truths and consistently describe their actions in terms of sovereign decisions taken for the sake of liberating the public from the shackles of deceit and manipulation. In this light, rather than embodying a new model of political activism, hacktivism appears to faithfully retrace the messianic footprint that Derrida identifies and challenges in a variety of contexts: from the classic emancipatory discourse, in both the Marxist and liberal lineages, to the neo-evangelical tones used to celebrate the end of the bipolar world and the global expansion of market rule.¹²

In May 2013, helped by WikiLeaks, Snowden flew from Hawaii to Hong Kong where he revealed the first trove of files to two handpicked journalists, Glenn Greenwald from

the *Guardian* and Laura Poitras, a documentary filmmaker. An email exchange followed, written with high levels of encryption, read without any cell phones nearby, without the help of a Wi-Fi connection, on spare computers bought with cash. In them, Snowden explained to Poitras that, in the same way that the decision to leak was his, and his alone, she should decide how to handle his fate as her source.

It will be your decision as to whether and how to declare my involvement. My personal desire is that you paint the target directly on my back. No one, not even my most trusted confidante, is aware of my intentions, and it would not be fair for them to fall under suspicion for my actions. You may be the only one to prevent that, and that is by immediately nailing me to the cross rather than trying to protect me as a source.¹³

The sacrificial language that Snowden used with Poitras is echoed and possibly emphasized by the tone Poitras used in an interview concerning *Citizenfour*, her documentary dedicated to Snowden's leak. 'It was clear', she said, 'that here was someone who had decided to sacrifice his life, like a suicide.'¹⁴

In Poitras' eyes, Snowden is thus a kind of martyr, somebody who elects to suffer persecution and even death for advocating, renouncing, or refusing to renounce his beliefs. Not far from the model of the early Christian evangelists, or maybe even the suicide bombers of the third millennium, this is a man who, in her eyes, was forced to take justice into his own hands. It is precisely the overlapping of theological and military images that seems to characterize both the self-understanding and the rhetoric of these crypto-dissidents, who found in Berlin a small enclave from which to launch a global offensive against a system of oppression that they see anchored in secrecy. If the secret is revealed, and, even more importantly, exposed in its secrecy, the oppression is going to be lifted.

Snowden, like Manning, Assange and many others before them . . . [is] a classic example of what Albert Camus called a rebel – the man who says 'no' in the face of what he considers to be illegal but also immoral, who fights against the kind of world he doesn't want to live in. Citizens of Berlin, join the whistleblowers, cypherpunks, and hacktivists – it's time to rebel.¹⁵

This call, which was published in the September 2014 issue of *Exberliner*, one of Berlin's English-language publications, opens a window onto the kind of cyber-utopian project in which the politics of the secret has packaged itself and that attracts ample grass-root support worldwide, especially among the younger generations. While the reference to Camus speaks of moral urgency and individual responsibility, there is a much darker side to the discourse of this politics that couples a deep mistrust of the human and an unconditional trust in the code.

The politics of the secret speaks in two sharply distinct registers. On the one hand is the messianic image of the *Wikiangel*, a guardian spirit and a guiding influence, whose emancipatory message is transparency in communication and whose fight is for freedom from manipulation and deceit. The Wikiangel holds the leak as a key to Digital Enlightenment. On the other hand, however, is the *Wikiwriting*, that is, cryptography, the practice and study of techniques for securing communication in the presence of third parties.

While the Wikiangel reveals secrets, Wikiwriting, or cryptography, produces secrets, by expanding the possibilities of keeping secrets. If we were to put it in an axiomatic fashion: no decryption without encryption.

The specter of the secret and the secret of the specter

In writing about specters, Derrida noted that ‘the specter, as its name indicates, is the frequency of a certain visibility. But the visibility of the invisible’,¹⁶ where invisibility is another name for justice. ‘If I am getting ready to speak at length about ghosts, inheritance, and generations, generations of ghosts, which is to say about certain others who are not present, nor presently living, either to us, in us, or outside us, it is in the name of justice.’¹⁷ Justice is invisible because, by definition, not yet settled and it is this call for settlement that brings the specter back, making it visible and haunting.

‘One cannot speak directly about justice, thematize or objectivize justice, say “this is just” and even less “I am just,” without immediately betraying justice.’¹⁸ On this basis, Derrida establishes a duty to hauntology. Since justice can never present itself in flesh and bones, engaging with the spectral dimension of discourse is a moral imperative. Hacktivism promises to do just the opposite: to make justice present by exposing a documentary truth in flesh and bones. The presupposition of this gesture is that once the document is made public, that is, accessible to the public, it will speak by itself. But a text’s legibility, or intelligibility, cannot be limited to its accessibility. And concurrently, we cannot legitimately conceive a text’s illegibility in terms of its material inaccessibility.

To pose these critical questions does not mean advocating that we should not discuss whether certain classified documents should be made public, but rather to caution against overly simplified and often dangerous generalizations, as well as rigid polarizations. I argue that there cannot be a blanket justification concerning the public accessibility of *all* classified documents. It depends which public we are navigating and which document we are examining. In other words, access to classified files should not be turned into an ideological fetish. Each case is different and would demand a targeted decision.

The logic of the leak demands that as soon as a text is granted accessibility, it will acquire a ‘transparency of intelligibility’ that will fully evaporate its secrecy. Along Derridean lines, I want to suggest that ‘if such transparency of intelligibility were ensured it would destroy the text, it would show that the text has no future [*avenir*], that it does not overflow the present, that it is consumed immediately’.¹⁹

In order to do justice to any text, we have first of all to protect it from immediate consumption, which means to recognize and respect its intrinsic, and partly irreducible, complexity. This means to restore the expectation that responsibility, especially political responsibility, does not only apply to *rescuing a document from secrecy*, by making it publicly accessible, but also to *protect its secrecy*, that is, its future. While a document is to be read and interpreted, it has to be respected in its chance to survive that is contained in the possibility of being read and interpreted otherwise: not right at this very moment and by someone like me with a different point of view, but at some future moment, in a new and possibly unforeseeable context by someone I cannot even imagine.

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Notes

1. George Orwell, *1984* (New York: Penguin, 1950).
2. See Bernard E. Harcourt, *Exposed: Desire and Disobedience in the Digital Age* (Cambridge, MA: Harvard University Press, 2015), p. 25.
3. *ibid.*: 18.
4. *ibid.*
5. Herman Melville, *Bartleby the Scrivener: A Story of Wall Street* (Rogue River, OR: Krill Press, 1980).
6. Jacques Derrida, *The Gift of Death* (Chicago, IL: University of Chicago Press, 1995), p. 9.
7. Jacques Derrida *Given Time: I Counterfeit Money* (Chicago, IL: University of Chicago Press, 1991), p. 94
8. Accessible @: http://www.nytimes.com/2013/06/12/opinion/surveillance-a-threat-to-democracy.html?_r=0
9. David Lyons, 'The Search for Surveillance Theories', in David Lyon (ed.) *Theorizing Surveillance: The Panopticon and Beyond* (Cullompton, Devon: Willan Publishing, 2008), pp. 3–20 (p. 6).
10. Kevin D. Haggerty, 'Tear Down the Walls: On Demolishing the Panopticon', in David Lyon (ed.) *Theorizing Surveillance: The Panopticon and Beyond* (Cullompton, Devon: Willan Publishing, 2008), pp. 23–45 (p. 29).
11. Accessible @: <http://www.newyorker.com/magazine/2010/06/07/no-secrets>
12. Jacques Derrida, *Specters of Marx: The State of Debt, the Work of Mourning, and the New International*, trans. P. Kamuf (New York and London: Routledge, 1994).
13. Accessible @: <http://www.newyorker.com/magazine/2014/10/20/holder-secrets>
14. *ibid.*
15. Accessible @: <http://www.exberliner.com/features/lifestyle/berlins-digital-rebellion/>
16. Derrida, *Specters of Marx*, p. 100.
17. *ibid.*: xix.
18. Jacques Derrida, 'Force of Law: The "Mystical Foundation of Authority"', in Drucilla Cornell, Michel Rosenfeld and David Gray Carlson (eds) *Deconstruction and the Possibility of Justice* (New York and London: Routledge, 1992), pp. 3–67 (p. 10).
19. Jacques Derrida, *A Taste for the Secret* (Cambridge: Polity Press, 2001), p. 30.