Transparency as a Theory of Communication

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Abstract

Transparency's importance as an administrative norm seems self-evident. Prevailing ideals of political theory stipulate that the more visible government is the more democratic, accountable, and legitimate one. The disclosure of state information consistently disappoints, however—there is never enough of it, while it often seems not to produce a truer democracy, a more accountable state, better policies, and a more contented populace. This gap between theory and practice suggests that the theoretical assumptions that provide the basis for transparency are wrong. This essay argues that transparency is best understood as a theory of communication that overly simplifies and thus is blind to the complex nature of the contemporary state, government information, and the public. Taking them fully into account, the essay argues, should lead us to question the state's ability to control information—which in turn should make us question not only the improbability of the state making itself visible, but also the improbability of the state keeping itself secret.

Introduction

As administrative norms and concepts from political theory go, transparency is all the rage (e.g., Obama, 2009; Stiglitz, 1999). Also known as "publicity"—the term Jeremy Bentham

used in his classic work (Bentham, 1999)—and "open government," the transparency norm commands that a governing institution must be open to the gaze of others.[1] It operates in the first instance in the humdrum world of administrative laws ("freedom of information" and "right to know" acts and the like), with its legal and bureaucratic systems that enforce "transparency" through the mandatory disclosure of government information to citizens. But transparency's animating principle sounds in political and social theory, where it serves as a foundational element of democratic participation and accountability. It also tells a transformative narrative that goes like this: Citizens are ignorant of state action, and their ignorance impedes their ability to participate rationally in the democratic process; the disclosure of state information enables citizens to act collectively as a polis that is capable of deliberative, reasoned action; this action in turn will hold the state responsible for its actions; and thus transparency insures that the state is truly representative of the public's beliefs, preferences, and interests. The state that is made visible proves to be more truly democratic, as well as more accountable and efficient. Transparency enables—and, indeed, *forces*—this virtuous chain of events.

Transparency's hotness exists in practice as well as in theory. For the past several decades, reformers both within and outside the state have sought to expand the state's visibility by holding governments to a greater, more expansive standard of openness (Fenster, 2010). These efforts have borne some fruit. Governments across Europe, the Americas, and Africa have enacted constitutional and legislative public rights to information (Ackerman and Sandoval-Ballesteros, 2006). Private institutions, including non-governmental organizations like Transparency International and the Sunshine Foundation in the U.S. and vigilante watchdog groups like WikiLeaks and Anonymous, offer non-state means to make certain the state is open. The public can thereby evaluate any government's performance against transparency norms. The

press and online whistleblowing sites, the latest and most significant institutional development for transparency advocates, have distributed enormous quantities of unofficially leaked information. Such leaks have disclosed secret programs that shamed government officials, and they may have played a role in the so-called Arab Spring uprisings (Saleh, 2013). Indeed, transparency has captured the popular imagination—think of the righteous, persecuted whistleblower from countless films, television shows, and investigative news stories, or WikiLeaks's heroic and self-congratulatory efforts to provide a safe portal for big, stolen data (as well as the struggle over Julian Assange's legal status and sexual practices and the persecution of his key source Chelsea [née Bradley] Manning), or the Guy Fawkes mask that Anonymous members wear in YouTube videos announcing their latest data-hack-and-disclosure. Transparency is the dramatically satisfying answer to every crisis and question about the state.

But transparency has not proved to be a panacea for good, open governance, and its increasing significance as an administrative norm has not rendered the government fully visible. Advocates have long complained about the extent to which states continue to hold information secret, protecting their bureaucratic prerogative over the most important government actions and programs (da Silva, 2010; McPherson, 2006: 50-51). In the most telling example of transparency's disappointment, Barack Obama's election as U.S. president, has not resulted in a demonstrably more open American state despite his initial 2008 campaign in which he explicitly promised to offer the most transparency administration in U.S. history and to reject the Bush administration's penchant for secrecy. Instead, as his political opponents on the left and right maintain, President Obama has continued to keep much of the national security state secret—including especially its controversial programs like the use of drones to assassinate targets

abroad and the use of digital wiretapping technology to monitor international and domestic internet traffic and phone calls (Friedersdorf, 2012).

It would be easy to understand this gap between a theory—hypothesizing that more transparency makes a better state and more informed public—and practice—the laws and channels by which information can flow to the public and practice but that fail to function as prophesied—as a problem of governance. *If only the state can be made to disclose itself, to tear down the informational walls that keep it secret, the authentically democratic state that we deserve will finally emerge.* But this way of explaining transparency's failure to succeed is wrong. No doubt the state should be less secretive. But as a theoretical construct, "transparency" cannot accurately conceptualize the information whose disclosure it hopes to prescribe. It views disclosure cybernetically, as the transmission of information from state to public, and assumes that transmission will banish public ignorance, magically transform public discourse, and allow the true public to appear and triumph. It assumes too the essential existence and materiality of a state and of government information—two quite complex phenomena that are not so easy to identify and control in the forms that a cybernetic model requires.

Pulling apart the communication model that underlies the concept of transparency, this essay provides a critical reflection on transparency theory's shortcomings and the prevailing challenges to it. It discusses in sequence the model's components, and specifically its understanding of the state, its information, and the public. At the end of the essay, I offer two propositions that challenge transparency's core beliefs—both transparency *and* secrecy, transparency's opposite, are implausible in their normative goals and as theoretical constructs. Understanding this, we are left not with transparency's dream or secrecy's nightmare, but with a contested political struggle over the state's actions and meaning.

Transparency as Communication

Transparency posits the following set of identifiable actors and/ or entities involved in state information. First, state institutions—identifiable, coherent, essentially bureaucratic things—produce information and rely on it when they act. The state controls that information and can in turn be forced to release it. Second, the information that the state produces exists in the form of documents or meetings. This information's existence is obvious, as is its location in government file cabinets and digital archives that can be searched efficiently. Government information reveals state action and official decision making, and its meaning is self-evident. Third, the public is able and motivated to understand disclosed messages and their significance. The public awaits revelation of the state's actions so that it can act upon it, using the proper channels of public discourse and democratic voice. Put schematically, the assumptions look like this:

1. government constitutes a producer and repository of information, one that can be made to send that information;
2. government information constitutes a message that can be isolated and disclosed;
3. and there is a public that awaits disclosure of government information, and is ready, willing, and able to act in predictable, informed ways in response to the disclosure of state information.

Transparency thus presumes a communicative act, one that advances in a linear fashion as a message moves from the state to the public. It is a classic, linear model of communication that posits a simple process of transmission from a source to an intended audience via the medium of a message (Schramm, 1955). The most famous such model, deriving from the late 1940s work of the engineer Claude Shannon, sought to enable the evaluation of a communications technology's ability to transmit information efficiently and effectively. It defined the formal components of communication as an "information source," which selects a

message to send; a transmitter that changes the message into a signal that is sent over a communication channel to receiver; and a receiver which changes the transmitted signal back into a message (Shannon, 1948: 34). The emerging field of mass communications research subsequently adopted the Shannon model as the basis on which it would develop its own models to conceptualize the processes and effects of the mass media (McQuail and Windahl 1993, 16-17; Hardt, 1992: 77-90). The model also wove through the field of public administration, where it served as another means to understand and theorize bureaucratic decisionmaking (Dorsey, 1957: 308-310).

One cannot understate the prominence of its conception of information—as one recent heralded account of information theory noted, its influence on engineering and social science was immediate and profound (Gleick, 2011: 221, 262-68). It recast "communication" as a problem not of meaning but of "reproducing at one point either exactly or approximately a message selected at another point." (Shannon and Weaver, 1949: 31). Indeed, the model explicitly disavowed the semiotic process, focusing instead only on the transmission of information as an engineering problem—one that could best be solved by reformulating the process by which information can be moved via electronic channel. The technical problem was merely one in a group of three that needed a solution. Shannon and his coauthor Warren Weaver recognized also the semantic problem of communicative meaning and the behavioral problem of communication's effects, all of which needed attention for a message to be perfectly transmitted (Shannon and Weaver, 1949: 4). But the technical problem framed their discussion and solution for how to move information from point to point.

Like information theory, transparency began to emerge in the midcentury Cold War era in the U.S., as the government's nuclear and national security apparatus exponentially expanded

the quantity of state secrets. Led especially by news editors and trade groups representing press interests, an increasingly vocal open government movement began using the phrases "freedom of information" and a "right to know" to advocate for legal requirements that the state make its workings more visible to the public. The movement viewed government information as the key element of a nascent (and beneficial) communications process that bureaucrats blocked with excessive controls. Transparency proponents argue that communication can occur, and therefore stronger democracy can emerge, once the state is pried open and its information set free. To the extent that the movement offered a theory to explain its model, it was one based on making information available—that is, first and foremost to solve the technical problem of moving information from the state to the public. The press would help make meaning out of this information, to be sure, although during this high point of journalism's authority as a neutral arbiter of news, such meaning-making was presumed to be objective, clear, and self-evident. The right behavioral effects—the emergence of a truly democratic state, especially in relation to the totalitarian regimes against which the U.S. was in competition—would surely follow (Fenster, 2012: 451-468).

The tools for transparency have changed over the past sixty years. Alongside the declining influence and resources of the traditional, institutional press to press that had advocated on transparency's behalf, many advocates now emphasize information technology rather than the press as the means to make the government open, in the process shifting focus from documents to data (Morozov, 2013: 63-99). The geographic scope of the movement has expanded as well, now extending far beyond the U.S. and western-style democracies to include former members of the Soviet bloc (Michener, 2011). But the underlying concept has remained steady. Transparency presumes both the possibility and necessity of a certain kind of information exchange. The state

must open itself to view. The information it possesses must be transmitted to the true sovereign, the public, for purposes of perfecting a democratic system. The public, armed with the information it has received, will in turn hold the state accountable.

The model itself is not only flawed but misbegotten. It reduces the very political nature and dynamics of the state-public relationship to transmission and effects, views the divide between public and private as essential and merely functional, and imagines a noise-less communication cycle that allows an engineering solution to the problem it identifies and frames, (Mattelart & Mattelart 1992: 43-47). This reductive impulse ignores the multiple roles communication plays in establishing complex relationships among the parties to the communicative act. As Derrida explained in critiquing functional models of communication,

> When I say something to someone, it is not certain that my major preoccupation is to transmit knowledge or meaning; it is rather to enter into a certain type of relation with the other person, to attempt to seduce him or her, or give him or her something, or even to wage war. Thus, beyond the schemas of communication appear other possible finalities. (quoted in Mattelart & Mattelart, 1992: 47).

The normative engineering model posits the space between state and subject as a problem to conquer and control. Its application in theory suggests that the citizen can only loosen her subjectivity to the state by becoming subject to its information rather than to its power, and to gain this new subjectivity transmitted through the auspices of some medium (print or electronic) and some mechanism (law, the press, a website). But by conceptualizing the political as communicative and communication as transmission, transparency theory merely reflects and redoubles the citizen's position as passive subject (Carey, 1989: 15-21). In the sections that follow, I consider each of these parts of the communication model—the sender (the state), the

message (government information), and the receiver (the public)—in turn and reveal how each component is not only far more complex than the transparency model assumes but does not even exist in the way the model conceptualizes them.

The Invisible Open Government

Private first class Chelsea Manning and Edward Snowden provided the raw materials that composed the largest and most prominent leaks of U.S. government documents in the past decade—respectively, the various WikiLeaks disclosures (including the "Collateral Murder" video and the State Department cables) and the revelation, via the British newspaper *The Guardian* and other publications, of the NSA's secret surveillance programs. Unlike the majority of leaks that emanate from within the government and from high-level officials, Manning and Snowden were low-level figures within and outside the state. Their relative anonymity illustrates the state's complexity and the difficulty of keeping state information secret—and, by extension, of making it transparent.

Manning demonstrates the essential ungovernability of "street level bureaucrats"—the lowest employees on the organizational chain whose work is essential to a government entity's efforts to implement law and policy but whose organizational and physical location make them difficult to control. In the aftermath of the 9/11 attacks, the U.S. national security state complex responded to criticisms that agencies and employees had hoarded information rather than coordinate activities across agencies and sectors by encouraging broad information sharing (Fenster, 2008: 1286-1292). Although done with the hope that information sharing might improve the government's efforts, the strategy also increased the potential for information leaks from the likes of Private First Class Manning, who was able to take digital files out of secure

databases using quite simple copying techniques and technology (Nicks 2012: 131-138). She thereby revealed how the state is not a singular entity whose information can be controlled. And although Manning disclosed classified information in violation of the state's classification system, she demonstrated in a more general way why and how the state proves unable to make itself perfectly transparent—because government entities, like all bureaucratic organizations, cannot fully control themselves against recalcitrant bureaucratic resistance (Crozier and Friedberg, 1980). Manning demonstrates not only the difficulty of keeping secrets, but also the difficult of official efforts to impose transparency. If the state cannot perfectly force its employees to comply with its secrecy laws and policies, then there is no reason to expect it to perfectly force its employees to comply with transparency laws and policies. Secrecy and transparency both require the power to control information—but as Manning, and the countless unauthorized leakers of less information since Daniel Ellsberg's important mass leak of the Pentagon Papers make plain, it is a power that modern states have a difficult time achieving and using.

Again, this is a failure of theory rather than a failure of the bureaucracy to live up to a theoretical construct. How can we expect the state to act as the willing and singular sender of messages imagined in transparency's communication model when it must control a multitude of dispersed employees? Consider not only the vast number of personnel the state employs but the vast space that it encompasses —more than two million people work for the Department of Defense, between its active duty force and full-time civilian work force and without excluding the National Guard and Reserve forces, and 450,000 Defense employees work overseas, some on boats and others on shore (Department of Defense, 2013). Manning herself was stationed in Iraq when she downloaded the files she would release to WikiLeaks, and ultimately sent material to

the site while on leave in the U.S. Her low-level position provided Manning invisibility and limited the control the military had over her use of information, while her physical distance, coupled with the ease with which she could move large quantities of digital data, made control that much more difficult.

Edward Snowden was not in fact an official government bureaucrat; instead, he was an employee of Booz Allen Hamilton, a private firm that works under contract for the National Security Agency (among other government entities) (Greenwald, MacAskill, and Poitras, 2013). Yet his access to government information as part of his private employment was an element of the state's strategy to hire civilians and private corporations that are presumptively more "efficient" and expert at accomplishing government goals to perform work that might otherwise be performed by government employees (Kettl, 1993). Whether the resulting public-private relationships, which public administration scholars characterize as elements of a "hollowed out" state, actually improve the state's performance is peripheral to the fact that they make the state less coherent and less visible, while they also make the state's information more difficult to reveal as well as control (Stanger 2009, 17-25). Like Manning, Snowden could not be controlled, either by his direct employers or by the NSA. And like Manning, Snowden reveals how difficult it is for an increasingly diffused and hollowed-out state to control information—both to keep information secret and to comply with laws and policies that would force information's disclosure.

The state's organizational chart, and the parts of it that produce and have access to government information, runs down to the Chelsea Mannings of the Pentagon and outward to the Edward Snowdens of the NSA via Booz Allen Hamilton. The contemporary state thereby sprawls both within and without, reaching well beyond the strict confines of physical burdens

and simple, hierarchical organizational forms. The American state's breadth and complexity would not have surprised Max Weber, who had predicted such a bureaucratic fate for the nation in the early twentieth century, declaring it "obvious that technically the large modern state is absolutely dependent upon a bureaucratic basis. The larger the state, and the more it is a great power, the more unconditionally is this the case." (Weber 1968, 971). In the modern era and after, this is not a phenomenon unique to the U.S. What Saskia Sassen has called the current global age includes a complex mix of the state's unbundling through public-private arrangements and a strengthening of the executive branch, which in turn seeks to keep secrets (Sassen 2006, 179-195). The organizational charts and maps of nation-states attempt to offer logical, hierarchical, and boundary-focused representations of a frequently unwieldy and incoherent, secretive and yet leaky, settled and ever-changing mess of social institutions.[2] The state does not exist as a singular entity capable of being domesticated, or capable of having its information and communication controlled.

Government Information Does Not Exist

The transparency ideal promises the state will be unveiled through the release of its information. But this unveiling assumes that disclosure will allow the public to view an unmediated state, and that disclosure will offer a thorough and truthful representation of government action with documents which provide an unexpurgated, authentic historical record. The visible state will be a government without walls, its every action and motivation in full view. But the documents that open government laws and whistleblowers and even vigilante leakers like WikiLeaks disclose are not comprehensive. They can provide a snapshot for a period of time from some part of the state, but not the entire state. Moreover, government documents are

produced by and within a vast bureaucracy where lines of authority lack clarity. Historians, journalists, the public, and even the document's putative author may not be able to determine a document's accuracy and actual effect. The state may release some documents but not all, strategically choosing both the time of release and the precise documents to be released; leakers, too, may have motivations that lead them to release strategically. Open government laws inevitably provide some privilege for the state to withhold secret documents to protect national security, law enforcement, and privacy, privileges that provide government officials reasons, both good and bad, to choose which documents to release, when to release them, and which material to selectively black out or "redact." And some information may prove easier to hide: officials frequently choose not to reduce certain information to writing, instead delivering it orally; they may evade official channels and use personal email accounts to transmit information; they may produce documents in an iterative process and destroy or make unavailable certain versions; they may move documents to a place or a bureaucratic home that makes them unavailable; they may produce a deluge of paper in which the truest, most important version is invisible; and they may classify documents in order to protect them from release.

The content of the "government information" capable of disclosure thus will not capture the range and motivations of state action. The universe of government documents and open meetings constitutes a hypothetical archive that is infinite in possibilities, including not only those documents and meetings that are held in secret (whether for good or bad reasons, and whether with legal authority or illegally) but also those that are not produced or are destroyed. In other words, it is entirely hypothetical—an impossible, inaccessible universe that would encompass the state's entire production of "information." To characterize the mercurial nature of

actually existing and obtainable government information as a "message" or a "text" capable of communication to the public is to misunderstand the complexity of governance and bureaucracy.

Moreover the meaning of that incomplete "information" is inevitably contestable. This is in part a claim that sounds in the various theories of signification that have destabilized interpretation and the production of meaning. At minimum, and put simply within the framework of transparency's communication model, the "message" of government information as decoded is not that which was encoded.[3] Any government document is polysemic, capable not only of different, partisan interpretations but also of willful reinterpretation by radical critics of the state. Indeed, even redactions can be read multiple ways both in an effort to fill in the gaps that black marks create but also to speculate about the state's motivation in censoring particular words (Powell, 2010).

But the contestability of government information is an institutional issue as well as a semiotic one, concerning how various media and technology circulate information in processes that both encode and decode government documents and meetings on their way to the public. The classic Shannon and Weaver model of communication assume these steps of multiple encodings and decodings (Genosko, 2012: 33-34), but the transparency model elides them, assuming that released government information magically arrives to the public in perfect, unexpurgated form. The driving force behind the American FOIA statute and the institution that uses it the most to disseminate political information to the public has historically been the press, which requests, sorts, chooses, and filters the documents it obtains; only in rare instances (although more frequently now with the ability to distribute large quantities of information via the Internet) does it make original documents easily available to the public. Whether subject to political bias or not, the press plays a crucial role in presenting and digesting information to the

public—which is to say that it constitutes a channel that initially "decodes" the state for the public through the government information it obtains. The mass, unexpurgated releases that WikiLeaks promises suggests a different model that is more immediate and "authentic," though WikiLeaks too inevitably plays an active role in obtaining and releasing certain documents, and the sheer size of its releases requires someone to play the role of sorting, filtering, and decoding—perhaps WikiLeaks, perhaps reporters who base stories on documents leaked to WikiLeaks, perhaps the reader who visits the WikiLeaks website. These institutions and their material and technological modes of production and distribution are not neutral. They inevitably affect the composition of the "public" that will have access to government information and how that public views and interprets it.

Viewed this way, government information does not exist as an object capable of simple transmission. To be sure, public officials produce documents and meet in the open, and the state exists as a material object in buildings, archives, websites, and is embodied in elected and appointed officers and civil servants. But government information is not an essential thing to which the public will be given access, nor is it a self-evident thing that a single public will understand and interpret in a singular, unified fashion.

The Imaginary Public

In fact, the "public" that stands in as the receiver of information freed from the transparent state does not exist except as an empty concept in political theory. In *Publicity's Secret*, Jodi Dean (2002) persuasively argues against the public's existence in what she describes as the "technoculture" of "communicative capitalism," which renders the modern ideal of the public as an imaginary entity that is at once impossible to achieve and ideologically necessary.

By communicative capitalism, Dean means the reshaping of enlightenment-era and -inspired democratic ideals by new technologies which seem to augur an emergent public sphere, one that privileges "[a]ccess, information, and communication as well as open networks of discussion and opinion formation." These technological, communicative modes would seem to solve the problems posed by a mass industrialized society, and its presumed vulnerability to fascism, to democratic ideals and practices.[4] But the technoculture of instant- and omnipresent connectedness instead devolves into a "deluge of screens and spectacles," at the same time that it enables "massive distortions and concentrations of wealth" due to capital's hypermobility and the interconnected financial markets that new information technologies help develop (Dean, 2002: 3). Technoculture enables and indeed produces resistance to its hegemony, but it requires those who would challenge it to rely upon the naturalized, ideological system that produced it—hence, the self-defeating tendency of left opposition to rely upon the publicity available via communicative capitalism to defeat or at least contain technoculture's further spread (Dean, 2002: 4). Communicative capitalism promises that "the truth is out there" by promoting the fantasy that more information, available with each click of a Google search, will provide the answer to the question that communicative capitalism itself provoked (Dean, 2002: 8). Meanwhile, the illusory public sphere composed of disclosure and information "provides democratic theory with the reassuring fantasy of a unitary site and subject of democratic governance" (Dean, 2002: 9).

The public in this concept appears fully capable of being informed and acting rationally on this information. Dean argues, however, that the "public" is constituted by a looming antagonist: the secret, which separates the public as an outsider to certain information whose availability is presumptively essential to the public's acting as in the ways that a public must act.

Democracy can only fully function when it can banish the secret as a category; yet, in constituting the secret as that which is outside democracy, democratic theory invests the secret with power, mystery, and an "irresistible aura" that in turn invites new technologies which can unveil and allow discussion of it (Dean, 2002: 11-12). By requiring an ideally reasoning public, transparency and publicity unleash the suspicion that the public is not being fully informed (Dean, 2002: 18-22). Reconstituting the "public sphere" as a degraded space of darkness rather than light, "the secret is the fundamental limit point of democratic validity" (Dean, 2002: 16). In a culture and politics obsessed with information and the secret, the ideal public exists only as a figment in the theoretical imaginary—an imaginary produced by the transparency ideal.

In a very different way, other theoretical and empirical critiques of the public ideal call into question the assumptions underlying transparency and its role as a transformative agent of democracy. The field of public opinion studies has long identified the extent of the public's ignorance regarding even basic matters of politics, government, and history (Lewis-Beck et al. 2008, Berelson et al., 1954). In the U.S., opinion poll respondents have expressed the persistent belief that Saddam Hussein was involved in the 9/11 attacks and had an advanced program for building weapons of mass destruction despite well-publicized official reports of disconfirming evidence (Milbank and Dean, 2003). Behavioral and cognitive psychologists have identified the heuristic devices, or rules of thumb, that shape individuals' judgment processes and lead to reflexive, often inaccurate perceptions despite, and sometimes even because of, access to accurate information (Gilovich and Griffin, 2002, Hastie and Dawes, 2001). And the field of rational or public choice scholarship in political science has asserted that voters and democratic citizens are rationally ignorant, relying on heuristics like political parties and candidates to make decisions rather than investing time and energy to perform research and deliberation on complex

issues (see Somin, 2013: ch. 3). The image of the public as wanting more information about the state that it will be capable of processing thus must face the public's cognitive limitations as well as its limitations as rational political actors.

Transparency's theory of communication posits a public that awaits illumination—a nascent polis prepared to receive, interpret, and act upon the information revealed by the state's disclosures. Habermasian democratic theory valorizes and rests upon this ideal. But if the actually existing publics either do not act in the deliberative, rational way that the model assumes, or if the "receivers" of government information are uninterested, distracted, or incapable or unwilling to consider the revealed state, or if the "public" does not exist except in the imaginary ideals of theory and simple communications models, then transparency cannot have the effects its proponents presume must surely follow from disclosure.

Conclusion:
The Improbabilities of Information Control

Transparency is essential in a democracy, and yet its imposition on a recalcitrant state never seems fully successful. The problem, as I have suggested, is that transparency is improbable. The state's complexity and sprawl, along with bureaucratic practice, make law an imperfect tool for revelation. Alternative means of forcing disclosure, from the spectacular vigilantism of WikiLeaks and whistleblowers' more workaday leaks through the efforts of digital activists to aggregate government data and those of anti-corruption NGOs to reveal official bribes and extortion, allow a greater glimpse of the state but also fail to make it fully visible. The state is not defined or revealed by its "information"—which is composed of texts and meetings

that can only imperfectly represent official action and motivation, rather than perfectly reproduce them.

But the same is true of secrecy. Secrecy is antithetical to democracy (even if, at limited moments, it is essential to governance). Yet secrecy's imposition on a recalcitrant state, like transparency's, never seems fully successful. Whether released through official channels—sometimes strategically, other times through imperfectly enforced transparency laws—or unofficially—again, sometimes strategically from the inside, sometimes from whistleblowers and those opposed to official action—secrets rarely remain secret forever, or even for very long. As I document in a forthcoming paper that explores U.S. failures to control information about, among other things, its most secretive covert actions and intelligence gathering, secrecy too is improbable (Fenster, forthcoming 2014).

As a matter of practice and governance, the attempt to impose transparency and the effort to keep secrets both assume the possibility that the state can perfectly control information. This explains why a simple communication model forms the basis of both transparency and secrecy—the transparency ideal presumes the ability to enable a flow of information, while the secrecy ideal presumes the ability to stop it. Both therefore founder in the face of bureaucratic complexity and resistance that render the modern democratic state incapable of controlling the production and distribution of information.

They fail too in their effort to address what Shannon and Weaver (1949: 4-6) in their original communication model characterized as the "effectiveness" and "semantic" problems that accompany the "engineering" problem of transmitting information. If the state's information can be controlled, either to force transparency or to keep secrets, then, so transparency's and secrecy's proponents would argue, the public's understanding of the state and its behavior can

also be controlled. Thus, enabling or stopping the flow of information will affect the state's legitimacy and meaning as well as the public's actions. Here, too, the Shannon and Weaver model presupposes that its engineering theory, which seeks to guarantee "signal accuracy," will enable and even help explain and make more effective the effort to communicate meaning and shape behavioral effects (Shannon and Weaver 1949: 6). But even assuming the state's ability to solve its "engineering" problem by perfecting either transparency or secrecy, the complexity of government information and its meaning, as well as the illusion of the "public" and the difficulty of controlling or predicting its behavior in light of new information, render the model simplistic and inaccurate and the theory which rests on it inadequate to explain social and political phenomena.

These insights could lead one to despair about the social and political implications of transparency's limitations, or to argue for the state's withering in the wake of public ignorance (see, e.g., Somin, 2013). Neither is a necessary conclusion. This essay has been a critique of a particular mode of discursive advocacy built upon a set of unquestioned theoretical assumptions. To critique the theory and to challenge the prescriptive implications that advocates draw from it is not to propose abandoning all of those advocates' normative goals. The state may never be fully visible, but it can be forced—whether through law or leak—to reveal itself as much as possible, particularly about especially important issues at especially pressing moments. The problem facing those political and social theorists and public administration and legal scholars concerned about the relationship between the modern administrative state and democracy is how best to advance the primary goal of making the state more responsive, legitimate, and effective without over-privileging the secondary goal of making it more visible.

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Notes

[1] This essay concerns only state transparency, although its approach could apply, with some adjustment, to the transparency of non-state actors.

[2] On the complex spatial nature of the nation-state, see Short 1993, p. 123; on maps as representational ideals and visual representations of the social world, see Curry 1997, p. 90, Lefebvre 1991, pp. 84-85

[3] The most significant restatement of the communications model within cultural and social theory is Hall 1980.

[4] Habermas serves as the target of Dean's critique and the representative of what she sees as publicity's champions in social and political theory—especially the Habermas of *The Structural Transformation of the Public Sphere* (1989) (see Dean 2002: 23-24, 152-157).