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# Transparency in search of a theory

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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 it appears. 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 article argues that transparency is best understood as a theory of communication that excessively simplifies and thus is blind to the complexities of the contemporary state, government information, and the public. Taking them fully into account, the article 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.

## **Keywords**

communication theory, information theory, open government, secrecy, transparency

As administrative norm and concepts from political theory go, transparency is all the rage (e.g. Stiglitz, 2003; Obama, 2009; Meijer, 2012). 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.<sup>1</sup> 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

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information to citizens. But transparency's animating principle operates in political and social theory as well, 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; 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 government have sought to expand the state's visibility by holding national and subnational governments, as well as transnational governing institutions, 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 Soros Foundation's Open Society project on freedom of information, 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 like WikiLeaks, 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 depicted in countless films, television shows, and investigative news stories and embodied in the NSA data hacker Edward Snowden, 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 (McPherson, 2006: 50–1; de Silva, 2010). Consider two telling examples of transparency's disappointment: Barack Obama's election as US 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 US history and to reject the George W. Bush administration's penchant for secrecy (Friedersdorf, 2012); nor have the European Union's efforts to increase transparency succeeded in increasing the institution's legitimacy and in giving the impression of an accountable bureaucracy (Curtin and Meijer, 2006).

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 finally 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 article 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, 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 theory

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 filing 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. 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. Under this cybernetic ideal, the state is defined by its 'streams of information', as the prominent mid-century political scientist Karl Deutsch explained (1963: 76–84). 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 to be sent over a communication channel to receiver; and a receiver that transforms the transmitted signal back into a message (Shannon, 1948: 34). Its simplicity and generality have made it the exemplary foundation for modeling communication in both engineering and social science (Gleick, 2011: 221, 262–8; Genosko, 2012: 115). The emerging field of mass communications research adopted it as the basis on which it would develop its own models to conceptualize the processes and effects of the mass media (Hardt, 1992: 77–90; McQuail and Windahl, 1993: 16–17). The model also wove through the field of public administration, where it served as another means to understand and theorize bureaucratic decision-making (Dorsey, 1957: 308–10). It offered a universal intellectual answer to postwar inquiries about technology and society – with the proper transmission of information would come peace, prosperity, and a response to the Soviet specter that lurked behind the Iron Curtain (Peters, 1999: 23–5).

The Shannon and Weaver model 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, it explicitly disavowed the semiotic process, viewing the transmission of information as an engineering problem to be solved by a new theorem that reconsidered the process by which information can be moved via electronic channels. Shannon and his coauthor Warren Weaver conceded that the technical problem engineers and scientific theory faced was merely one in a group of three, a group that also included the semantic problem of communicative meaning and the behavioral problem of communication's effects. Each 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 mid-century Cold War era in the US, as the government's nuclear and national security apparatus exponentially expanded the quantity of state secrets (Fenster, 2012: 451–68). 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 technical 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 argued then, and continue to argue today, 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 legal problem of moving information from the state to the public. The press would help make meaning out of this information once it could gain access to it. During the mid-twentieth-century high point of journalism's status as a neutral arbiter of news, the authority of the press to report self-evident facts in an objective and clear manner seemed secure and went largely unquestioned. Once state information flowed to the public, the right behavioral effects – the emergence of a truly democratic state, especially in relation to the totalitarian regimes against which the US was in competition – would surely follow.

The tools for transparency have changed over the past sixty years. The influence and resources of the traditional, institutional press have declined, and many transparency advocates now emphasize information technology as the preeminent means to make the government open and to move information to the public. In the process, advocates have shifted transparency's focus and its characterization of government information from politically crucial, bespoke documents to mass agglomerations of data (Morozov, 2013: 63–99). The geographic scope of the movement has expanded as well, now extending far beyond the US and western-style democracies to include former members of the Soviet bloc (Michener, 2011). But the underlying concept has remained the same – the 'disclosure devices' might change and might have distinct practices and effects, but the underlying desire and theory are intact (cf. Hansen and Flyverbom, 2014). Transparency presumes both the possibility and necessity of a certain kind of information exchange. The state must open itself to view. The (digital) information it possesses must be transmitted (electronically, especially via the internet) to the true sovereign, the (wired) public, for the purposes of perfecting a democratic system. The public, armed with the information it has received (via its digital devices), 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 and its relationship to the public to transmission and effects. It views the divide between public and private as essential and merely functional. And it imagines a noise-less communication cycle that allows an engineering solution to the problem it identifies and frames (Mattelart and Mattelart, 1992: 43–7). This reductive impulse ignores the multiple roles that 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 and Mattelart, 1992: 47)

The seemingly neutral 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 his or 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), erasing communication's interactive, responsive, and iterative social process among humans (Ong, [1982] 2002: 171–2). It also contemplates a smooth and perfect system that is free from noise's static and disruption. This ignores not only noise's permanence as background but also what Michel Serres identified as noise's generative qualities, and the fact that its role as ground enables communicative content to emerge (Serres, 1982: 66–7; 1995: 13; 2007: 14). The state's content could not exist without the noise that transparency seeks to filter and remove. Viewed this way, transparency cannot exist in a pure or instrumental form, and the abilities and behaviors it is presumed to produce in the public will not follow inevitably in its wake.

In the sections that follow, I consider and critique transparency's underlying communication model more thoroughly by discussing in turn each of its parts – the sender (the state), the message (government information), and the receiver (the public). I do so to reveal how each component is far more complex than the transparency model assumes and does not exist in the way the model conceptualizes them. In the closing section, I situate my critique of the model, and therefore of 'transparency' as a form of governance, within a more general discussion of governmentality and the bureaucratic practices of governance.

## The opaque state

The state that transparency imagines is separate from the public, contained, and legible – the organization imagined in simple and logical organizational charts that boast clear bureaucratic divisions and lines of authority. Surely legal obligations could force such an organization to disclose its documents in a programmatic, orderly manner. This is in fact not the case, as the most recent spectacular leaks from the American leviathan show.

Through 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, US Army Private Chelsea Manning and Edward Snowden provided the raw materials for the largest and most prominent leaks of US government documents in decades. Their leaks challenged the American national security state and affected state institutions and actors around the globe. Unlike the majority of leaks that emanate from within the government and from high-level officials (Pozen, 2013), 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. Together, they illustrate the sprawling nature of the contemporary state and its ungovernability as a producer and repository of information.

Manning exemplifies the 'street level bureaucrat' (Lipsky, 1980) – a low-level civil servant 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 US 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: 1286–92). 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 Manning, who was able to take digital files out of secure databases using quite simple copying techniques and technology (Nicks, 2012: 131–8). She thereby revealed how the state is not a singular entity whose information can be controlled. Rather, it is made up of an ever-increasing proliferation of sub-units, themselves composed of a mass of uncontrollable employees. 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 staunch recalcitrant bureaucratic resistance (Crozier and Friedberg, 1980).

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 US Department of Defense, between its active duty force and full-time civilian workforce 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, 2014). Manning herself was stationed in Iraq when she downloaded the files she would release to WikiLeaks, and she ultimately sent material to the site while on leave in the US. Her low-level position provided her invisibility and limited the control the military could exercise 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 (NSA) (among other government entities) (Greenwald et al., 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 presumably 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 to 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 the information's disclosure. The very separation that might have enabled Snowden to leak gives the multitude of private contractors and their employees the ability to keep information secret because they are not formally part of the state apparatus.

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 contemporary state's breadth and complexity would not have surprised Max Weber, who had predicted such a bureaucratic fate for the US 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 US. 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 and growth of the executive branch. This expansive, increasingly complex state is committed and indeed quite anxious to keep secrets (Sassen, 2006: 179–95).

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.<sup>2</sup> But the state does not exist as a singular entity – as either the 'cold monster' of anti-state discourse or as the unified set of functions and institutions that administrative theories and laws imagine (Foucault, 2007: 108–10). It cannot be domesticated; its information and communication cannot be controlled.

## **'Government information' does not exist**

Transparency's promise that the state will be unveiled through the release of its information assumes that disclosure will allow the public to view an unmediated state. Information will offer a thorough and truthful representation of government action through documents that provide an unexpurgated, authentic historical record. The state will operate without walls, its every action and motivation in full view. But the documents that open government laws, whistleblowers, and vigilante leakers like WikiLeaks disclose are not comprehensive. They can provide a snapshot of a period of time from some part of the state, but not of the entire state.

Moreover, as the previous section explained, government documents are produced by and within a vast bureaucracy. Lines of authority lack clarity. Organizational boundaries, rivalries, and disputes lead to ambiguous, partial records. Historians, journalists, the public, and even the author of a government document may not be able to determine its 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. Many of these strategies are permissible under existing freedom of information laws.

The content of the 'government information' capable of disclosure thus will not capture the range and motivations of state action. Documents are, in Lisa Gitelman's terms (2014: 1), 'epistemic objects; they are the recognizable sites and subjects of interpretation across the disciplines and beyond, evidential structures in the long human history of clues'. They do not merely represent the state and its actions and intents but also produce the state in their invocations and reproduction of social and power relations (Hull, 2012: 19). They are 'inscriptions', in Bruno Latour's (1986) terminology, mobile across the state's vast organization and geographic space and immutable in content. Their meanings as clues are not self-evident or, dare I say, transparent (Kafka, 2009: 341).

Nor do they form a manageable archive. The universe of government documents and open meetings 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'. The actual archives of released documents cannot encompass that which is not memorialized and that which resists complete memorialization – the secret whose secrecy is not solely due to concealment but to its irreducibility to information and to a medium and communication, as Clare Birchall (2011: 71–2) has argued, or because it is not recorded in an effort to avoid disclosure requirements (Vismann, 2006: 98). This would be the case even under expanded legal obligations. To characterize the mercurial nature of actually existing and obtainable government information as a body of 'messages' or 'texts' capable of communication to the public is to misunderstand the complexity of governance and bureaucracy's way of handling files (Vismann, 2008: 122). It also assumes the possibility of archival contents untouched by the process and institutionalization of archiving. As Derrida explained, however, 'The technical structure of the archiving archive also determines the structure of the archivable content even in its very coming into existence and in its relationship to the future. The archivization produces as much as it records the event' (Derrida, 1998: 17). Absolute access to a perfect archive, whatever that might mean, is unobtainable.

Moreover, the meaning of the contents of that hypothetical, absolute archive 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 (Hall, 1980). 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 – the black marks on an official document that strike names, words, even whole pages – can be read multiple ways both in an effort to fill in blacked-out gaps and as speculative exercises in divining the state’s motivation in censoring particular words (Powell, 2010).

The contestability of government information is an institutional issue as well as a semiotic one, one that concerns 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 assumes multiple encodings and decodings (Genosko, 2012: 33–4), but the transparency model elides such multiplicity, assuming that released government information magically arrives to the public in perfect, unexpurgated, authoritative form. Digital storage and transmission capabilities now may make original documents widely available, but the public continues to rely upon the institutional press as well as non-institutional interpreters (bloggers, NGOs, and the like) to serve as the necessary channels that initially ‘decode’ the state for the public through the government information they obtain. 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 as WikiLeaks and Snowden’s tenuous but necessary relationships with the press demonstrate, the sheer size of their releases has required someone to play the role of sorting, filtering, and decoding. These institutions and their material and technological modes of production and distribution are not neutral – historical events become ‘subject to all of the complex formal “rules” by which language signifies’ in their passage through the discourse of mediated communication, as Stuart Hall noted (Hall, 1980: 129). Like auditors who collect, process, and interpret financial and other data and claim to aid in providing public accountability of the institutions they review, these channels claim to offer the unexpurgated truth as a means for the public to see the authentic state as it truly works but in fact do so within their own discursive, ideological practices (cf. Power, 1997; Strathern, 2000b).

Viewed this way, government information does not exist as an object capable of simple transmission and is not received by the public in some pure, objective form. To be sure, public officials produce documents and meet in the open, and the state exists as a material object in buildings, archives, and 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**

The existence of a unitary, competent modern public capable of engaging intelligently with the modern state and politics has been contested throughout the twentieth century (e.g. Lippmann, [1925] 1993; Dewey, [1927] 1954; Adorno and Horkheimer, [1947] 1972; Warner, 2002). 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 contemporary '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 Enlightenment-inspired democratic ideals by new technologies that 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' (Dean, 2002: 3). These technological, communicative modes would seem to solve the problems posed by a mass industrialized society, with its presumed vulnerability to fascism, to democratic ideals and practices – the problems central to Habermas's (1989) work on the public sphere's structural transformation. But instead of delivering on the promises of a technological solution to a degraded public sphere, 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 may enable and indeed produce resistance by providing cheap and easy means to build and access counter-hegemonic political and social movements. But it requires those who would challenge its pervasiveness 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 (p. 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' (p. 9).

The technoculture's public may appear fully capable of being informed and acting rationally on this information. Dean argues, however, that this 'public' is illusory. To the extent it exists, it is constituted by a looming antagonist: the concept of the 'secret', which separates the public as an outsider to certain information whose availability is presumptively essential to the public's acting in the ways that the classical liberal ideal of the public must act. The democratic subject can only fully function when it can banish the secret as a category; yet, in constituting the secret as that which is outside democracy, liberal democratic theory invests the secret with power, mystery, and an 'irresistible aura' that in turn invites the development of new technologies to unveil and allow discussion of that which it hopes to banish (pp. 11–12). By requiring and promoting an ideally reasoning public under the promise that the public can and should have access to unlimited information, transparency and publicity in a technocultural age unleash the suspicion that the public is not being fully informed (pp. 18–22). 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 itself produced by the transparency ideal. Instead of a public, we are left with an audience that may or may not find government information worthy of attention. The 'public' exists in a Baudrillardian hyperreal rather than in the

classically modern sense whose existence transparency presumes (Baudrillard, 1988: 27; 1993: 810). The communicative process in which government information is decoded proves more complex and subject to misunderstanding and re-interpretation and misinterpretations than the 'perfectly transparent communication' that open government advocates desire (cf. Hall, 1980: 135).<sup>3</sup>

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 in the disciplines of political science and communications has long identified the extent of the public's ignorance regarding even basic matters of politics, government, and history (Berelson et al., 1954; Lewis-Beck et al., 2008). In the US, 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 Deane, 2003). Europeans, too, are ignorant about some of the basic structures and powers of the European Union (Hobolt, 2007). Ignorance about the state and political events in part arises from cognitive processes. 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 (Hastie and Dawes, 2001; Gilovich and Griffin, 2002). 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: Chapter 3). The image of the public as wanting more information about the state than it is 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 do not act in the deliberative, rational way that the model assumes, and if the 'receivers' of government information are uninterested, distracted, or incapable or unwilling to consider the revealed state – and, most significantly for social and political theory, 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.

## **Theorizing transparency's failed theory**

Access to government information is essential in a democracy, but programmatic transparency's 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 of anti-corruption NGOs to reveal official bribes and

extortion, may allow a greater glimpse of the state but fail to make it fully visible. The state is not fully defined or revealed by its 'information', which can only imperfectly represent official action and motivation rather than perfectly reproduce them.

But viewed from the opposite angle, the same is true of state 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, and its existence itself is thoroughly public in its role as an obsession among elites and the public alike – the 'public secret' that Michael Taussig (1999: 50–1) identified which everyone knows but whose inevitability no one dare concede (Horn, 2011: 105). 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. Keeping even its most classified covert actions and intelligence gathering secret is improbable for the state to achieve (Fenster, 2014), a characteristic of bureaucratic governance that the Manning and Snowden leaks confirm.

The imperfect efforts to impose transparency and keep secrets both assume the possibility that the state can perfectly control information. Such efforts reflect what Samuel Weber has identified as the desire for a stable ground of governance in the midst of increasingly complex, anxiety-provoking leviathans in the state and in the larger corporate and civic institutions that structure the contemporary subject's everyday life (Phillips, 2011: 164–5). 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 ideals play essential roles in the theoretical underpinnings of liberal democracy and the liberal state. Both collapse 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. Alongside the informational efficiency that Shannon's engineering model posits, effective communication must also reproduce the sender's intended meaning and produce the sender's desired behavior effects in the receiver. If the state's information could be controlled, either to force transparency or to keep secrets, then the public's understanding of the state and its behavior could also be predicted and controlled, whether in the fully flowering participatory democracy that transparency should produce or in the (perhaps) more secure but less fully (or even non-)democratic political system that secrecy must create. 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 the state's signals cannot be controlled from within or without – the state cannot simply and easily send or be forced to send information, nor can it fully suppress it. Transparency and secrecy, like

the communication model on which they are built, are inadequate to explain complex, contingent social and political phenomena. They propose an ideal of the state and attempt to develop practices that rely upon the assumption that the state can control information. They are discursively powerful, have had wide-ranging effects on bureaucratic practice, and regularly fail.

These insights could lead one to despair about the social and political implications of transparency's limitations as a means to reform and improve democracy and political accountability. They illuminate the profound sense of ambivalence that transparency and secrecy, as contradictory but mutually constitutive terms in a democratic order, create around government information, and the seeming lawlessness of secrecy (even when it is legally permissible) in the midst of a legal regime of transparency that putatively obligates the state to communicate. Secrecy represents what Eva Horn (2011: 113–17) has characterized, following Carl Schmitt ([1922] 2005: 5–13) and Giorgio Agamben (2005: 18), as a core aspect of the state's essentially paradoxical relationship to law: operating outside the law as an exception to the democratic order, while serving, so its proponents maintain, an essential role in the maintenance of the law to which it is exterior. One could, therefore, reach the following conclusion: secrecy is essential and transparency impossible, and the public's ignorance renders it incapable of processing information; therefore, the state should be reduced to little more than the night watchman of classical liberal fantasy in order to protect the public from the state's inevitable corruption and domination (see e.g. Somin, 2013).

This is not a necessary conclusion, and it has not been my intent to present it as inevitable or preferred. This article has been a critique of a particular mode of discursive advocacy built upon a set of unquestioned theoretical assumptions – a form of governmentality in which reflections on how the state should operate have been translated into governance practices that are then adopted by the bureaucratic state (Foucault, 2007: 358). To critique the theory and to challenge the prescriptive implications that advocates draw from it do not require abandoning all of those advocates' normative goals. Transparency constitutes an ideal concept and administrative norm without political guarantees, and is as capable of enabling a minimal, neoliberal state as it is of producing a popular democratic one (Bauman, 1998: 29–33; Garsten and de Montoya, 2008: 90–1).<sup>4</sup> To achieve the latter, the state can be forced – whether through law or leak – to reveal itself as much as possible, particularly about especially important issues at especially pressing moments. But it cannot be fully revealed, and the practice of imposing transparency itself requires of the state and transparency's agents significant self-reflexivity. As Marilyn Strathern (2000a: 2) has argued about the 'audit culture' produced in the accountability practices of contemporary private and public governance, 'transparency' takes on the 'contours of a distinct cultural artefact' when placed by social theorists and critics in its proper historical and theoretical context. Žižek, too, has warned against the postmodern tendency to embrace the transparent without understanding how the process of producing such vision obfuscates the conditions and limitations of such transparency (Žižek, 1997: 103). The problem facing those social and political theorists 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 in the guise of transparency. Recognizing transparency's

simplistic understanding of communication provides a conceptual and theoretical start to that project.

### Notes

1. This article concerns only state transparency, although its approach could apply, with some adjustment, to the transparency of non-state actors (see e.g. Christensen, 2002; Hansen and Flyverbom, 2014).
2. On the complex spatial nature of the nation-state, see Short (1993: 123); on maps as representational ideals and visual representations of the social world, see Lefebvre (1991: 84–5) and Curry (1997: 90).
3. Although Hall's essay concerned televisual discourse, and his reference here is to the ideals that television producers hold regarding mass communication, it is analogous in this context both to the communicative ideal embedded in transparency and to the journalistic conception that the press can perfectly and neutrally transmit government information to the public.
4. Critics of the transnational anti-corruption movement have made this argument most pointedly (see e.g. Hindess, 2009; Sampson, 2010).

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