THE POLITICAL DIALECTICS OF TRANSPARENCY IN MODERNITY AND BEYOND: THE RADICALIZATION AND PROBLEMATIC OF VISUAL POLITICS

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Ishita Menon, M.Sc.

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Thesis Advisor: R. Bruce Douglass, Ph.D.

ABSTRACT

The idea of transparency has achieved cult status in the public sphere. It has been touted as the solution to all political ills ranging from the opacity of power, to secrecy, crime and corruption. At first glance this seems unproblematic; however, a closer look reveals a deep-seated tension embedded in the history of the concept that is in need of clear articulation. In this dissertation I trace the logic of transparency in politics back to the Enlightenment period. From the writings of Rousseau, Kant and Bentham, it becomes evident that political thinkers at the time had significantly different understandings of the meaning of transparency. Two influential ideas of transparency with conflicting aspirations emerged: it was linked to the emancipatory, democratic ideal of publicity on one hand; but it is also came to be associated with the (vastly different) notion of surveillance, implying control and domination. The historical background reveals that surveillance and publicity are both part of one vision, i.e., the desire for transparency. In other words, what links these two ideas is their shared emphasis on the use of vision as a means to understand the logic of political life. I claim that our aspiration for a transparent society is turning out to be misguided. The confusion surrounding transparency is becoming more evident in our time as the advance of technology lets us do both things well, i.e., hold politicians accountable, but also to spy on others. I argue that today most vehicles of publicity (for example the Internet) can be also construed as instruments of surveillance, leading to an erosion of the ethical aspects of publicity. Specifically, what is at stake here are our civil liberties. I suggest that a combination of the methodologies of Foucault and Habermas can help
us confront the challenges presented by both avatars of transparency, i.e., publicity and surveillance.

Ultimately, I attempt to answer this question: is it in fact valuable to pursue the ideal of transparency in politics, given the technologies now available?
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Rhymes are not my forte,
But this is no ordinary day,
It’s the dawn of a new me,
A Ph.D.!

I promised poetry to the one closest to me,
My husband, Saurav Mazumdar Ph.D.

So let me offer thanks,
Before my mind goes all blank!

Professor Douglass my advisor,
You’re not just wise but nicer,
Without your pedagogy where would I be?
Certainly not a PhD!

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The best minds in the field with hearts to match,
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You are the world’s best parents and this is no hyperbole.
I hold dear the values you instilled in me,
With so much love, freedom and equanimity.

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You always stood by me.
And I wish my father-in-law were here to see,
The family’s Ph.D. quartet complete.

My aunts, uncles, cousins and friends
I am grateful to all for your love and blessings.

Sitara, my daughter you are a delight at two,
We worked side by side all through,
This one is for you!

Finally, my husband extraordinaire
You cheered me on every step of the way.
Words cannot do justice to your contribution,
Behind my every endeavor you are the reason and inspiration.

Thank you reader for suffering this verse,
Get past it, quick! the prose can’t be worse.
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The Modern Pursuit of Transparency in Politics: An Introduction

*Everything to come stands under the banner of transparency.*
  - Walter Benjamin

By definition, transparency is the “material quality that permits vision to penetrate an object.” In politics it implies a condition that authorizes a complete view of a person, political concept, political negotiation and/or a political space. Typically, transparency has been viewed as an ideal we should aspire to. Its universal appeal has transcended cultural, geographical and even typological boundaries. It is almost impossible to peruse a newspaper or listen to the news without some reference to transparency in one of its many guises. My project is guided by an instinct that this pervasive political principle of transparency is more complicated than it appears, and for this reason it merits a better understanding.

Transparency arguably is one of modernity’s most prominent and abiding tropes. The word has been used in recent times in connection with a wide spectrum of subjects ranging from the European Union (as a democratic policy technique) to the Catholic Church (as a means to foster trust) to the German Reichstag building (as a part of institutional architecture) to the CCTV images of suicide bombers (in the form of surveillance technology). What do these references hold in common? Can they be connected in any coherent way? Does transparency represent a new phenomenon? In this dissertation I suggest that intelligent sense can be made of this complex mix by locating the visual metaphor of transparency in the history of ideas. The

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widespread use of the concept in our public life makes it desirable to take a closer look at the origins and implications of this phenomenon.

It is commonplace amongst theorists to map out different origins, meanings and understandings of the terms liberal, democracy, citizenship etc. Similarly, the word transparency has been understood in different ways over time and across contexts. Inadequate research and understanding of the philosophical roots of the term has often led to confusion regarding the political significance, scope and limits of this principle. In the light of the current prominence of the term this omission is even more conspicuous. Hence I believe that an inquiry into the epistemic underpinnings of the idea of transparency needs to be a part of political theory.

In recent times, transparency understood as the opposite of secrecy, has generated considerable enthusiasm in policy circles, and it has been touted as a vital resource in the efforts to manage global problems. However, the prolific use of this term in public debates today tends to reflect a lack of awareness of the role “transparency” played in politics prior to the end of the Cold War. The word may have come back into vogue with the “mutual veil dropping” but the idea is certainly not a new one and it has been a part of political discourse in the West for a long time. Discussions on the theme of transparency have taken place across several different disciplines – originating in philosophy, then extending into the physical sciences, politics, economics, architecture and even computer science. But in this dissertation my inquiry is limited

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3 Post-Cold War, transparency has become the mantra for “good governance” among scholars, policy makers, and activists. Transparency through the public disclosure of information is said to deter corruption and enhance the functioning of governments, markets and private sector organizations. The trend began in the area of arms control when several governments agreed to monitor each other’s military capability. Calls for greater transparency have been made by a plethora of international organizations such as the WTO, IMF, World Bank and European Union. Aspiring to fight corruption at a local and global level, the NGO Transparency International has been effective in grabbing the attention of the international community by publicizing its corruption rankings and fighting corruption on the ground in various countries through its localized bureaus. Ann Florini, *The Coming Democracy: New Rules for Running a New World* (Washington DC: Island Press, 2003)

4 The neglect of the history surrounding the concept of transparency can be seen in an article in the *New York Times* ‘Transparency Totally’ by William Safire (January 1998) who attributes the term transparency signifying the opposite of opacity to Paul Kiparsky a linguist at MIT in the 1970’s!
to exploring the meaning and significance of the idea of transparency in political thought and action. Certain aspects of the political debate on transparency have been identified and examined by scholars; however, nothing like a comprehensive analysis of the meaning, scope, and limits of this highly popular principle has been attempted in the field of political theory, to my knowledge.

My purpose in this dissertation is to trace the history of the concept and explore the implications of various theoretical positions and changes that have accompanied its use, and in the process has given rise to the present situation. Keeping in mind that transparency’s origins lie deep in the history of ideas, my question broadly is: If the idea is viewed in the light of this history, how does a politics of transparency look?

The dialectic of visibility and concealment is as old as politics itself. It is no accident that metaphors of light and vision have played a major role in Western political thought, or that they have frequently been used to explain the nature, method, and goals of philosophy itself. One thinks of Plato and the allegory of the cave, Augustine’s resistance to the spiritual darkness in the City of God, Descartes’ concept of natural light, and, above all, the modern idea of Enlightenment, or Aufklarung. Jacques Derrida argues that light is not just another rhetorical device used by philosophers; it is the foundation of the entire project of philosophy. The enterprise of philosophy is aimed, he says, at getting behind appearances in order to reveal the truth, the real underlying structure of things; so it is about “seeing oneself see.” It is important to clarify that my focus here is not on the reflexive nature of philosophy as such; instead it is the use of the motif of transparency with reference to politics. This dissertation will focus on the possibilities and limitations of a form of reflexivity designed to eliminate distortion in politics.

and it will do this through an examination of the role that transparency has played in the history of ideas in modern times. There is something distinctive about the modern era and its emphasis on vision that sets it apart from the pre-modern use of metaphors of light. This distinction is best explained using architects Colin Rowe and Robert Slutzky’s distinction between “phenomenal transparency” and “literal transparency.” In pre-modern times the metaphor of transparency was used in a phenomenal sense as a “perceptual quality that allows the mind to discern the underlying governing concept or spatial concept.” In other words, transparency was the ability of the light of the mind to penetrate a concept so as to reveal its true essence, as is evident from the writings of thinkers such as Plato and Augustine. In modernity however, in addition to phenomenal transparency, there began a pursuit of transparency in the literal sense. I attribute the change that takes place in modern times to the scientific revolution and the technologies that emerged out of this period. In the next few pages I shall present an abridged story of the inception of the modern ideal of transparency.

Transparency first becomes interesting and influential in the modern era around the 18th century, as a byproduct of the Enlightenment, whose devotees believed that with the advent of the new science, reason would dispel the darkness, myth, and superstition of the preceding age. However, it was during the period of the 17th century scientific revolution, a precursor to the Enlightenment, that vision emerged as the “noblest sense.” For the purposes of this project, the most important representative of this pre-Enlightenment period is the original Aufklärer Rene

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9 The focus on deeper, clearer, more perfect vision led to the invention of devises such as the telescope, microscope, camera and x-ray etc. There is also certain uniqueness in the way these ocular technologies were used. With the power to make visible also came the power to control, eventually leading to practices of surveillance. Jay, Downcast Eyes: The Denigration of Vision in Twentieth-Century French Thought 3.
Descartes. I suggest that Descartes introduces the ocularcentric view that prevailed in the Enlightenment, of reason and the use of vision to make epistemological claims. So I want to briefly outline some of Descartes views in order to situate the political practices which derive from this intellectual climate.

Descartes is one of the principal representatives of the philosophical outlook that accompanied the new science. In his words, the aim was “to give the public... an entirely new science... by the aid of which I expect to be able to dissipate darkness however dense.” Descartes was particularly enthusiastic about scientific investigation through visual observation. He actively promoted technologies that enhanced vision, such as the telescope. In fact, it was the invention of the telescope that inspired him to write *La Dioptrique* or *Optics*, where he says:

> All the management of our lives depends on the senses, and since that of sight is the most comprehensive and the noblest of these, there is no doubt that the inventions which serve to augment its power are among the most useful that there can be.

Though Descartes makes the above statement with specific reference to technologies of vision, his partiality towards vision is reflected in his philosophy as a whole. Descartes’ famous claim, “whatever I perceive clearly and distinctly is true,” is indeed revolutionary. Prior to this, the idea of truth was rooted in transcendental sources such as divine revelation and the Platonic

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10 David Levin defines the term ocularcentric as a “discourse in which light, vision, and its metaphors are constitutive of its very logic.” David Michael Levin, *Modernity and the Hegemony of Vision* (Berkeley: University of California Press, 1993), 9. Throughout this dissertation I abide by this definition while using the word ocularcentric.
11 The Enlightenment takes its cue from Descartes who believed that “the conduct of our life depends entirely on our senses, and since sight is the noblest and most comprehensive of the senses, inventions which serve to increase its power are undoubtedly the most useful there can be.” Rene Descartes, *Selected Philosophical Writings* trans. Robert Stoothoff John Cottingham, and Dugald Murdoch (Cambridge: Cambridge University Press 1988), 57.
14 Ibid., 87.
15 Today ‘seeing machines’ which can be associated with highly technical as well as with moral expectations, take over the almighty function of control as a kind of public retina. God is being replaced as the paradigmatic world
forms. Descartes grounds truth in the human mind’s ability to perceive things, the two criteria for establishing truth being clarity and distinctness.\textsuperscript{16}

Descartes argued that most ideas he considered true were acquired using the senses. To secure this foundation for truth, however, he had to question the reliability of the senses. He worried that “from time to time…the senses deceive, and it is prudent never to trust completely those who have deceived us even once.”\textsuperscript{17} Nevertheless, he declares that the human mind can find certainty within itself using “the mind’s eye” or “mental vision”, which in turn is the source of what he terms the “power of understanding.”\textsuperscript{18} Ultimately therefore the power of understanding, i.e., reason, seems to take priority over vision for Descartes. However, I assert that his notion of reason is one that still relies on vision in the form of the ability to see and using the mind in this way has the added advantage of enabling one to “rationalize the visible world.”\textsuperscript{19}

It is from this link between lucidity and rationality that the word (and mood behind) Enlightenment derives its meaning. As Jean Starobinksi explains: “the Enlightenment…looked at things in the sharp clear light of the reasoning mind whose processes appear to have been closely akin to those of the seeing eye.”\textsuperscript{20} I claim that this ocularcentric epistemological model which originates in Descartes is later adapted as an anthropological model which heavily influences future political thought.

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\textsuperscript{16} Descartes explains: “I call a perception clear when it is present and accessible to the attentive mind — just as we see something clearly when it is present to the eye’s gaze and stimulates it with a sufficient degree of strength and accessibility. I call a perception ‘distinct’ if, as well as being clear, it is so sharply separated from all other perceptions that it contains within it only what is clear.” Descartes, \textit{Selected Philosophical Writings}, 174-75.

\textsuperscript{17} Ibid., 76.

\textsuperscript{18} Descartes writes: “When the mind understands, it in some way turns towards itself and inspects one of the ideas which are within it.” Ibid., 98.

\textsuperscript{19} Levin, \textit{Modernity and the Hegemony of Vision}, 10.

If one accepted this view, it meant that science was capable of opening everything up to the power of reason and observation. This belief had a profound effect on virtually all aspects of life, and social and political life soon was subjected to the pursuit of “the visibility of things, men and truths.” A central feature of the Enlightenment project of transparency was the zeal with which it was pursued through constant innovations in technology. With each new scientific discovery came a renewed promise of improved transparency. The naked eye as the sole observer of truth was overtaken by the invention in the 1860’s of the (photographic) camera. The ability to surpass human vision by images that captured “the truth” of the moment in a lasting way by new technology profoundly affected the 19th century discourse on transparency. Roentgen’s discovery of the X-ray in 1895 was another leap in this process, which made for even greater transparency by making visible what was imperceptible to the naked eye. The discussion of transparency at the time shows how serious was the desire to “lay bare” the fabric of humans and society. It was hoped that the creation of rational selves would lead to a perfectly transparent society based on complete visibility of political space and political subjects.

The political imagination was thus situated within a framework of optics. The classical antinomy between essence and appearance was set aside. Public life, which was once assumed to be a realm of appearance, was no longer seen that way. Enlightenment thinkers refused to accept the notion that society could be founded on a “noble lie,” and there was an increasing demand for politics to be open to public scrutiny. The public had a right, it was said, to know what their rulers were up to. The idea of transparency was thus first introduced as a means of emancipating the “people” (particularly the middle class) from arbitrary rule.

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To question this ideal of transparency might seem unthinkable. After all it has come to be associated with democratic values, such as the right to information, accountability, and open government. However, the suspicion that inspires this project is that the idea of transparency is in fact Janus-faced. It stands for the emancipatory, democratic ideal of publicity on one hand; but it is also associated with the (vastly different) notion of surveillance, which is linked to control and domination. My claim is that both are consequences of the modern concern with transparency. This link is a product, I propose, of the circumstance in which modern political ideals, including transparency, came to have force in society. If rulers are to maintain discipline in a capitalist and (yes) democratic society, the citizenry need to believe that they can be under surveillance at any time. The industrial revolution at the beginning of the nineteenth century had led to an enforced mass exodus from the villages to the city. This population movement led to a society of strangers who tended to lack knowledge of who their neighbors were - “a criminal, a madman or even worse a political radical.” The state responded to this situation by creating new mechanisms of social control, by expanding and deepening its systems of surveillance through the registration of births, marriages, and deaths, the census and the registration of contagious diseases. On the whole these measures were met with neither rebellion nor opposition, just a quiet internalization, due to the fear of being detected and punished by the state or powerful industries.

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22 I argue that both the utopian and the dystopian aspects of the idea of transparency, namely, publicity and surveillance, are implied as far back as in Descartes writings. Descartes predicted that the epistemological revolution could “make peasants better judges of the truth about the world than philosophers are now.” Rene Descartes, Descartes: Philosophical Letters, trans. Anthony Kenny (Oxford: Clarendon Press, 1970), 6. Widespread dissemination and access to knowledge could then lead to rational autonomy and self-governance, as envisaged by the idea of publicity. On the other hand, the relationship between Descartes’ observing subject and the object being inspected is a hierarchical one, where the subject has considerable power over the object. This is also the inception of the paradigm of instrumental reason. This view not only tries to control and manipulate nature but human beings as well. I argue that vision based certainty is an important part of the Cartesian epistemology and that it sets the groundwork for the concept of radical vision or transparency. The Cartesian subject is one that dominates others through its power of vision. The idea of surveillance is also based on this very same principle.


24 Ibid.
Thus I argue that surveillance has existed alongside democratic politics throughout much of modern politics. The democratic tradition is one that vests its power in the people and hence it may seem counterintuitive to use methods such as surveillance as an exercise of power over the people. In a rational and orderly world such a tool would be unnecessary. But since we do not live in an ideal world, it has become an accepted part of politics (liberal, democratic and otherwise) that to maintain order and protect its ideals, the state will be required to engage in forms of control (that may well be repressive).

To summarize, I attempt in this dissertation to explain, at the level of moral and political theory, how these two concepts, of publicity and surveillance, came to be intertwined. My claim is that surveillance and publicity are both part of one vision, i.e., the desire for transparency. In other words, what links these two ideas is their shared emphasis on the use of vision as a means to understand the logic of political life. The complexity surrounding the idea of transparency is masked by the popular appeal of both these ideas. The confusion surrounding transparency is becoming more evident in our time as the advance of technology lets us do both things well, i.e., hold politicians accountable, but also to spy on others. I claim that our aspiration for a transparent society is turning out to be misguided because of the problems arising out of the most recent technological advances in combination with democratic politics- which have the effect of radicalizing transparency. My main concern is that this radicalization, which presents the possibility of exposing everything, produces results that can easily turn dangerous and even pathological.

25 I believe that the logic of transparency has become almost indistinguishable from the logic surveillance. The “democratization of surveillance” has meant two things: widespread access to technologies of surveillance and the public’s willingness to allow extensive surveillance. Remarkably, we are living in a time where new attitudes have diminished the historic concerns with surveillance. Surveillance is no longer limited to files organized by the state agencies (for instance, the police, FBI, CIA etc), it is far more pervasive. Today, most vehicles of publicity (for example the Internet) can also be used as tools for surveillance. What I find disturbing is that the technological apparatus of surveillance has become entwined with the social aspects of our lives.
Ultimately, therefore, I want to pose - and answer, to some extent - the question of whether it is in fact valuable to pursue the ideal of transparency in politics, given the technologies now available.

I now proceed to discuss the design of this dissertation.

One of the primary objectives of this dissertation is to locate the concern with transparency in the history of ideas. Where and why did it arise? I choose this as my focus as I believe this perspective will be helpful in clarifying the meaning and rationale for the value that modern societies place on transparency. In particular, I will concentrate on the ideas of publicity and surveillance as two parallel and paradoxical outgrowths of the concern with transparency. Keeping this in mind, I examine the quest for transparency in the public sphere during the Enlightenment period. The five figures I select for this discussion, Rousseau, Kant, Bentham, Foucault and Habermas, are important contributors to this process and they provide a vital link between the utopian and dystopian visions that emerge out of it. Each of these thinkers gives transparency a distinct meaning, and all those meanings play a role in the political dynamics of the modern era. I also claim that the ideas of the thinkers in question have actually influenced our political practice.\textsuperscript{26}

In the first chapter I explore the origins of the modern concern with transparency and publicity through an examination of the thought of Rousseau and Kant. In comparing the two figures I attempt to explain the relationship between these two ideas. Rousseau advances a utopian vision of transparency and this meant nothing less than the ability to “gaze into each

\textsuperscript{26} For instance, Rousseau’s idea of transparency is explicitly linked to some of the practices that emerged during French revolution (see Chapter I p. 34-36). Kant’s notion of publicity is still very much alive, via Habermas in particular, and is used as a common justification during policy debates on publicity. Though Bentham’s Panopticon was never built, it has influenced the architecture of prisons (and other buildings) in several countries across the world (see Chapter II p. 67 footnote 165, 166). Bentham and Foucault are recalled on most discussions concerning surveillance today. They have become even more pertinent post 9-11 where there has been a steady increase in surveillance.
others’ hearts.” His goal of transparency is a situation where people are always authentic and their communication with one another is undistorted. With this in mind, he seeks to re-found political life in the midst of the mutual opacity and inequalities that existed among men. However, paradoxically, Rousseau has to resort to *engineering* this transparency by artificial means. Though he initially rails against the indiscriminate use of scientific reason across all the social science disciplines, eventually he himself resorts to the use of a similar kind of technical reason. There is I believe an important lesson to be learnt here: from the very beginning the ideal of transparency has been attainable only through techniques and technologies which are in themselves not transparent and at best therefore can only provide the *appearance* of transparency.

My argument will be that this signals early problems with the metaphor of transparency and the application of such an idea to politics. Despite Rousseau’s intentions, I maintain that his aspiration to create a public transparent to itself, without dialogue, bears close resemblance to a politics of surveillance.

Influenced by Rousseau, Kant develops the concept of transparency in politics under the rubric of publicity. His argument in favor of publicity seems fairly obvious and commonsensical. He claims that an informed citizenry and an open, accessible government is preferable to one that functions in secrecy, as it is more democratic and fosters individual autonomy. I wish to emphasize that the idea of transparency today gains its authority from its relationship to publicity. However, I assert that the basis of this idea is ultimately a kind of vision that undercuts the very basis of publicity, which is dialogue and public participation. Though Kant subscribes to an ocularcentric view of reason, unlike Rousseau, his principle of publicity is rooted in
communication and public debate. In this way he subscribes to a more limited form of transparency in the notion of publicity.\textsuperscript{27}

My aim is to show that there are significant differences between the ideals of transparency and publicity as expounded by Rousseau and Kant. These differences then get collapsed under Bentham.

I devote the second chapter to a discussion of the utilitarian twist Bentham gives to the idea of transparency. Bentham was particularly concerned with achieving an efficient system of social management. A government that was more transparent would operate, he thought, in a more efficient manner. His thinking illustrates two aspects of the story I intend to tell: the first, akin to Kant, relies on the concept of publicity as a means of regulating the behavior of rulers; in other words, it curtails abuse of power and improves the quality of decision-making in that way. Second as illustrated by the image of the Panopticon, transparency becomes a means of disciplining errant masses through a system of surveillance. I argue that in this way a dialectic between autonomy and utility gets embedded in the idea of transparency. On the one hand there is the principle of publicity and the accompanying vision of power vested \textit{in} the people in a Benthamite democracy, and on the other, there is the Panopticon as the paradigm of a Benthamite state, where power is exercised \textit{over} the people by the state.

I highlight the fact that the operative principle for both publicity and the Panopticon is visibility, which is used as an efficient tool to control both public officials and the masses alike. As a result, in principle, the idea of publicity can also be construed as a form of surveillance (of state officials by the masses). Bentham’s own view was that society as a whole will operate more

\textsuperscript{27} Despite the promise held by the principle of publicity, problems emerge with Kant’s boarder philosophical tenets, such as his ideas of universalism and objectivity, which play an important role in the way the notion of transparency subsequently plays out.
efficiently if based on principles akin to those of the Panopticon. Needless to say this leads in quite a different direction from the one suggested by the more democratic imagery to be found elsewhere in Bentham’s work.

The seeds of the dystopia of transparency this implies are eventually exposed by Michel Foucault. Writing in the 1970’s, Foucault problematizes Bentham’s vision of the Panopticon. In the third chapter I offer yet another theoretical perspective on transparency, understood as surveillance and publicity, discussing both Foucault and Habermas. I bring Foucault and Habermas into the discussion for a specific purpose: their work is evidence that the debate which originates in Bentham continues in our time. While Foucault focuses solely on the repressive aspects of Bentham’s Panopticon and the Enlightenment as a whole, Habermas credits Bentham with the notion of publicity and builds on that idea.

According to Foucault, all institutions of what he calls the “disciplinary society” are potentially “the instrument of permanent, exhaustive, omnipresent surveillance, capable of making all visible, as long as it could itself remain invisible.”

This kind of discipline, which results from an exercise of power through the pursuit of transparency, gradually takes on a generalized form wherein the whole society is under surveillance and everyone comes to inhabit the panoptic machine. Thus for Foucault transparency ends up being a “technology of power.”

Yet at the same time the commitment to transparency as publicity continues to be a powerful principle in both politics and political thought. Jurgen Habermas along with other proponents of deliberative democracy share the original contractarians’ commitment to publicity, asserting that transparent reasoning and decision-making by a representative body are essential conditions of effective public discussion and the broadening of citizens’ and officials’ moral and political perspectives. And more importantly, to avoid the Enlightenment trap of excessive

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visibility, Habermas makes a conscious attempt to move away from a visual mode to a discursive one.

In the end, I believe that Habermas and Foucault both espouse views on transparency that are unpersuasive. Foucault exaggerates the magnitude of the problem we face with his belief that “everything is dangerous.” And he does not provide a strategy to alleviate these dangers. Habermas’ use of the term transparency is too simplistic, as it does not fully account for new technologies and configurations of power. But they both provide valuable methodological insights for understanding the problems that surround the two strands of transparency, i.e., publicity and surveillance.

The preceding historical analysis prepares the way for what I have to say about the current situation. I stress that the practices used to achieve transparency today are also to some extent distinctive, i.e., they are and also are not products of earlier developments. The next two chapters focus on explaining both old and new trends in the practice of transparency politics.

I have established through the history of ideas that the concept of transparency is intimately linked to technical reason and technology. In the fourth chapter I discuss the impact of some of the more recent technologies of transparency and provide an assessment of the current state of the contestation and negotiation between autonomy and utility. I maintain that these technological innovations are not mere refinements of earlier tools, but that they represent new and more invasive forms of control that need to be understood better. Today, technological manifestations of the logic of transparency have permeated our culture through “security devices” that allow not just the state but even private organizations to track our movements and behavior (surveillance cameras, credit cards, biometric devices…etc). Ironically, the pursuit of an “open society” contributed significantly to the historical process by which this has happened,
and it has usually been justified in the name of minimizing social risk. A particularly troubling aspect of this trend is the fact that individuals often voluntarily participate in their own monitoring. Surveillance is achieved through a re-conceptualization of civil liberties as commodities that can be exchanged for perceived benefits. This is cast as a “risk aversion” technique that is rational on grounds of utility and security. My concern is that these technologies of vision are so thoroughly and subtly woven into nearly every aspect of modern life that we seem to have little choice in deciding whether or not we want to be a part of it.

The problem is not technology per se but the way in which it tends to transgress its limits and seep into political and ethical realms of human praxis. I defend this claim by suggesting that in this quest for transparency the idea of publicity is being overshadowed by technologies that offer greater vision and immediate information (the Internet and television being prime examples). As a result, publicity in the original sense of dialogue and participation is waning. My concern with Bentham’s notion of transparency re-surfaces here: As a result of overemphasis on the technical aspect of transparency today the technologies of publicity can be construed as instruments of surveillance as well, leading to an erosion of the ethical and moral dimension of publicity. I will explain how this is taking place in some detail.

From the preceding chapters it will become evident that the issues surrounding the notion of transparency are far from straightforward. The idea of transparency understood as publicity remains an influential democratic ideal which we cannot simply dismiss. Also, not all ideas of publicity can be construed as surveillance and not all surveillance is undesirable. So, my challenge is the final chapter will be to sort out clearly the promise and the dangers we face by subscribing to the technologies, techniques and language of transparency.
I argue that the idea of transparency and its pathologies in part mirror the movement that initially nurtured it. The Enlightenment can be linked to ideas of emancipation, on the one hand, and domination through the use of instrumental rationality, on the other. Similarly, the idea of transparency is also double-edged. While the norm of transparency (publicity) continues to be an unassailable ideal in democratic politics, the technical and technological manifestations of transparency (that take part in surveillance) have spiraled out of control in ways that can threaten freedom and autonomy. I suggest that some of the problems associated with the concept of transparency can be explained by the progressive radicalization of technocratic reason and the accompanying technological developments that have kept alive the illusion of ever deeper and more complete visibility, knowledge and power.

It is indeed tempting to buy into a utopia of transparency, as technologically we may well be able to achieve this today. However, these technologies in combination with democratic politics have also spawned new tensions, and this is what sets the current situation apart. The thrust of my critique will be directed against the “technization” of the social values which transparency as a technique and technology fosters.\textsuperscript{29}

Democratic politics has always allowed surveillance to exist. However in our times it has become so entrenched in our daily lives that it almost goes unnoticed. As in the previous chapter, I will argue that it has becoming increasingly difficult to distinguish between empowering and oppressive uses of transparency. For instance, CCTV cameras are used overtly for the purposes of surveillance while others such as the Internet in fact are explicitly associated with empowering the public; but the latter is just as liable as the former to be used for monitoring our activities.

\textsuperscript{29} Technique is the general term referring to efficient methodology; technology is a sub-set of technique and is associated with efficient product development.
I will propose a method by which we can confront the challenges presented by both avatars of transparency, i.e., publicity and surveillance. This will involve making a clear distinction between the norms and values that the idea of transparency represents and the notion of transparency as an instrument. To this end, I advocate a framework that combines the methodologies of Foucault and Habermas. Foucault’s method can help identify oppressive power structures embedded in the particular discourses and technologies of transparency. Once these have been identified and exposed, questions concerning the ethical aspect of these practices can then be subjected to the discursive democratic practices envisioned by Habermas.

I acknowledge that it will be difficult to implement the changes I have in mind, as this will require a serious re-consideration of the meaning of democracy on the public’s part. I find it disconcerting that the public in general are so accepting of our current levels of surveillance, presumably because it provides security and makes our lives more convenient. The larger issue here is that we seem to be unquestioning of the darker features of our democratic practices. Nietzsche had cautioned us about the outlook of democratic citizens, who in pursuit of “comfortable, happy lives” tend to be unmindful of the accompanying moral and ethical concerns. I claim that the time has come to take this warning seriously. We have led ourselves to a point where our civil liberties are in danger of being severely eroded by technologies of transparency. I will examine the grave implications of this particular trend. In order to resist this loss of freedom and privacy we need to understand and care enough about the issues at stake. Though not impossible, I argue that it is becoming exceedingly difficult to resist surveillance and the accompanying trends, since the demos appear to be willing participants in the process.

There is no denying that both publicity and surveillance are essential aspects of democratic politics. If we pay sufficient attention to re-interpreting both these ideas, keeping our
current situation in mind, they can be empowering. However, the core of my argument will be that the current problems associated with both these views arise in large part due to our fascination with “transparency.” Hence, ultimately I believe that the word transparency when taken literally lends itself to a radical view.

The metaphor of transparency is a potent one. It has played an important role in molding our political vocabulary and subsequently affecting the way we think and act. The trouble with the notion of transparency is that at times manages to expose power, sometimes to reflect it and sometimes to further enshroud it, depending on the values it fosters and the method undertaken to project them. In a world where the rationale of transparency has been institutionalized to signify the open workings of power, power in reality continues to function in opaque ways. This is precisely why I believe it is important for us to overcome the “dogma of immaculate perception.”30

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I. Rousseau’s Transparency, Kant’s Publicity and the Politics of Autonomy

_What Kant prized in Rousseau was the fact that he had distinguished more clearly than others between the mask that man wears and his actual visage._
- Ernst Cassirer

**Introduction**

This chapter will engage in a discussion of Rousseau and Kant, presenting them as pioneering figures in the articulation of the political norms of transparency and publicity, respectively. The aim is to study the political logic of these two ideas as they were originally conceived in modern Western political thought.

A fundamental question posed by Rousseau and Kant in their writings is: In what way can social and political structures be constructed so as to foster freedom and autonomy? Both thinkers allude to a somewhat common principle by which this can be achieved - the ideal of transparency. The workings of a government necessarily need to be fully visible (transparent) to nurture autonomous moral agents.

Lorraine Daston insightfully depicts the prevalent epistemic methods in Enlightenment Europe. Drawing a distinction between the 17th and 18th centuries she argues that in the former period epistemologists were concerned with whether the mind reflected the independent reality/world accurately. The eighteenth century grasped the complexity of this problem and understood objectivity as a methodological ideal to aspire towards. “Mechanical Objectivity” was pursued through technologies and disciplines that were devised to make the world

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transparent and capture reality uncompromised by human interpretation and interests. Objectivity became a technical problem to be mastered rather than a philosophical one. The concern was how to construct transparent spaces and people capable of attaining this kind of objectivity.

In the first section of this chapter I portray Rousseau as being caught in the midst of and exemplifying this epistemic tussle. I suggest that in modern times, fervor for this ideal of transparency originates in the writings of Rousseau. His idea of transparency is framed in terms of an optical metaphor, a visual aesthetic designed to suggest being able to “read the hearts of men;” autonomy is then gained by consensus that arises from the transparency of individual wills to the general will. On the one hand he is caught up in the quest for truth and objectivity, where every individual and her intentions are rendered fully visible. However, paradoxically, the same Rousseau proposes nurturing children and a whole nation through careful deception.

This paradox of freedom and domination in many ways characterizes the “self-destructive tendencies” of the Enlightenment. I discuss how Rousseau’s utopian arguments for transparency eventually give rise to problematic interpretations and implementation during the French Revolution. I argue that instead of bringing about the promised emancipation, this notion of transparency results in a highly regulated society. Rousseau’s dream of complete visibility was translated by the French Revolutionaries into a surveillance-based political system with oppressive consequences. To be clear, I do not suggest that this was Rousseau’s intention. A

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portion of this chapter is designed to show precisely how Rousseau’s ideal could lend itself to such unfavorable interpretations.

Kant turned the Rousseauian ideal of transparency into the political norm of publicity, and it is that idea from which the deliberative democrats draw their inspiration today. The section on Kant will examine the relationship between publicity and transparency. The idea of publicity is the only realistic way in which politics can be conducted if we forsake the aspiration to be able to read people’s hearts. Kant rejects this idea of “mechanical objectivity” and asserts that truth-telling would invariably leave a trace of the teller behind; hence the quest for complete objectivity is futile.\(^35\) As a consequence transparency can never be fully achieved in the world; pockets of opacity will always remain as a result of human intervention. I claim that both Rousseau and Kant espouse a subject-centered epistemology that is intended to render the political subject transparent. Kant moves beyond Rousseau’s utopian notion of absolute transparency of the self and instead shifts the emphasis to making political space transparent. Kantian politics is still visually constituted in the sense that it does rely on optical metaphors,\(^36\) but it veers away from Rousseau because it does not entail a political regime based on and dominated by vision.

Once the thinking behind these two political principles (transparency and publicity) is clear, the question then is whether or not either of them, as envisioned by Rousseau and Kant, can foster autonomy and enhance the substantive freedom of individuals -or not.

\(^{36}\) The word publicity in the German language is linked to the idea of visibility. This is clear in the connection Kant makes between the Enlightenment project and his idea of publicity. Kant defines the Enlightenment in terms of a visual experience, but one that is enhanced and results in greater clarity when reason is deployed.
The first task is to delineate the meaning of transparency according to Rousseau. In Rousseau’s writings the political aspects are often entwined with the psychological. Transparency in Rousseau’s usage has two aspects: one is his own personal quest for transparency, to find and reveal his own authentic self; and the other is his desire to discover and reveal the truth about the world. Since my concern is with transparency as a political ideal, I delve into the former only to the extent required to explain his politics.

Transparency presents itself in many ways in Rousseau’s works, one of the most documented being an ethic of authenticity. The idea of transparency as authenticity is a predominant theme that runs through the First and Second Discourses. Rousseau begins the First Discourse with the rise of the arts and sciences and then he goes on to describe his disenchantment with their effects and the extent of the corruption of morals they have brought. Throughout this essay Rousseau incessantly voices concern over the fact that “one no longer dares to appear as one is,” and he bemoans the loss of nature’s transparency as well.

37 Rousseau was haunted by the fact that he was misunderstood and paranoid that he was “surrounded by darkness” in which the plotting of “his enemies was always concealed.” His solution lay in baring himself to all through an unabridged and honest account of his life in The Confessions. Confession as institutionalized by the Catholic Church formed a part of the revolutionary discourse that prized transparency. Public confession was considered desirable, regardless of its banality. In his Confessions Rousseau writes:

“I must excuse or justify myself to the reader for the trivial details into which I have entered….and which in his eyes can have no interest. The task which I have undertaken of showing myself completely without reserve to the public, requires that nothing that concerns myself shall remain obscure or hidden; that I shall keep myself continually before his eyes; that it shall accompany me in all the errors of my heart, into all the secret corners of my life; if it finds in my narrative the least gap the least blank, it may ask, ‘What was he doing at that time? And accuse me of unwillingness to tell all. My writings expose me sufficiently, without my exposing myself to it still more by my silence.” Jean Jacques Rousseau, The Confessions (New York: Modern Library, 1945), Book II, 60.

38 Jay, Downcast Eyes: The Denigration of Vision in Twentieth-Century French Thought 90.


40 In his Preface to Narcissus, Rousseau argues that paradoxically what seems like a world in which economic ties have brought men closer is actually a world of opacity and falsity where mens’ minds are distanced from each other. Elsewhere he writes: “I complain that Philosophy loosens social bonds formed by mutual esteem and benevolence and I complain that the sciences and arts and all the other objects of commerce tighten the bonds of society through self-interest. And it is indeed impossible to tighten one of these bonds without the other relaxing by as much.” Ibid., 100.
In the Second Discourse Rousseau lays out his vision of natural transparency and its subsequent obstruction. Rousseau imagines three phases in the movement from a state of nature to modern society. Initially he says people lived in a way akin to animals. In the next phase, language develops, along with simple associations among people. This is the ideal phase according to Rousseau as it represents an uncomplicated human society, autonomous and transparent, living in freedom. This was the only time in human history where appearance corresponded to reality and each one could “conclude that their way of thinking and of feeling fully corresponded to his own.” The prevailing sentiment was that of *amor de soi* (authentic self-love), which “is a natural sentiment which inclines every animal to attend to its self-preservation and which, guided in man by reason and modified by pity, produces humanity and virtue.” Thus for Rousseau, transparency was most fully realized in original man, who was barely self-conscious and hardly judged his fellows.

Once nascent man learned to overcome nature’s obstacles and fight animals when required to sustain himself, he began to develop the capacity for reflection, which led to his superiority over other animals. The consciousness of this fact arouses “the first movement of pride in him.” The second phase does not last, as during this period the capacity for reflection emerges and authentic self-love gives way to *amor propre* (vain, artificial love of self); as a result people begin to compete with each other as they feel an intrinsic sense of self-worth, and vices such as envy and pride develop. The third phase is the harbinger of modern society’s problems. Due to a fully developed faculty of reason and reflection, natural inequality in terms of

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41 Ibid., The Second Discourse 163.
42 Ibid., 218 (footnote XV).
43 My use of the male pronoun here simply reflects the usage in Rousseau’s own writings.
44 Rousseau, The Discourses and Other Early Political Writings, 163.
45 *Amor propre* can be defined as “a relative sentiment, factitious and born in society, which inclines every individual, to set greater store by himself than by anyone else, inspires men with all the evils they do one another, and is the genuine source of honor.” Ibid., 218 footnote XV.
physical attributes and talents leads to social inequality in terms of status, wealth and power. Rousseau concludes that people in this stage are unhappy; they face alienation from their true selves as they are constantly judged by others and are mired in pretense and jealousy. In Rousseau’s understanding, reflection breeds false appearances and as a result diminishes transparency. As he plainly states: “I almost dare assert, the state of reflection is a state against nature, and the man who meditates is a depraved animal.”

It is clear in many ways that Rousseau is no Descartes. In his thought, faith in reason and science is replaced by skepticism about the moral effects of the values the Enlightenment purported to promote. Rousseau’s concern is that Enlightenment reason, which claims to make things more transparent, really resulted in the obscuring of people’s true nature as “it is reason that engenders amor proper, and reflection that reinforces it; reason that turns man back upon himself; reason that separates him from everything that troubles and afflicts him.” Real transparency for Rousseau is a product of the heart (sentiment) and not the mind (reason.) The elevation of reason over sentiment/feeling has led, in his view, to a loss of goodness and authenticity; it corrupted morals and resulted in a loss of transparency. I take this to be Rousseau’s first political statement on transparency.

Another aspect of Rousseau’s thinking that needs to be taken into account is the notion of transparency as an alternative (and even antidote) to representation. This facet surfaces in the Letter to D’Alembert where he condemns the theater on the grounds that it creates an unreal environment by using a fiction to mediate between the author and his audience. It claims to bring people together but in fact isolates and atomizes them further, since they sit apart in the dark watching this externalized spectacle. In reaction, Rousseau called for spectacles such as festivals

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46 Ibid., 138.
that achieved unmediated transparency. He values the popular festival over the theater, as he believes that it allows for “collective self-expression,” which he deems is an important part of “collective self-rule.”

Rousseau’s writings on the theater and the festival are politically significant as they are metaphors that contrast two different political styles and embody two different sets of political principles, the theater symbolizing a monarchy and the festival a democracy. In the former the communication is indirect and mediated through the stage and actors, and in the latter there is a direct heart-to-heart connection between the members. The actor epitomizes representation that Rousseau is so viciously against.

It is the art of counterfeiting himself, of putting on another characteristic than his own, of appearing different than he is, of becoming passionate in cold blood, of saying what he does not think as naturally as if he really did think it, and, finally, of forgetting his own place by dint of taking another’s.

Actors try to pass themselves off as something other than themselves and in doing so they pass off opinions of people other than themselves. They hold sway over the public but on completely false premises. This kind of duplicity is especially dangerous in the realm of politics. The masks that Rousseau rails against in his critique of the theater stand for the modern condition of deception and alienation and are akin to those we wear in our everyday interactions with people.

On the other hand Rousseau sees political benefits in the festival. Rousseau’s vision of the festival is that of a public assembly.

Plant a stake crowned with flowers in the middle of a square; gather the people together there, and you will have a festival. Do better yet; let the spectators become an entertainment to themselves; make them actors themselves; do it so that each sees and loves himself in the others so that all will be better united.

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50 Ibid., 126.
The setting of the festival is a transparent space such that there is no place for any kind of deception and everyone brings his/her true self. It is, as Rousseau says, “a pure form of public joy” where there is no use of words or language; there is immediate access to the real person, so there is no need for money, hence there is no social distancing. In this non-hierarchical arrangement equality prevails, as opposed to the theater, which depends on show and breeds a separation between the authentic, inner self (private) and the external characters actors play (public). By opening up to each other and being able to “see through” one another, citizens are able to develop a bond and acknowledge their shared humanity. Rousseau yearns for an undistorted process of communication and comprehension, and he desires for this transparency in communication to be an innocent process. The festival manages to transcend words as a form of communication; it is thus a perfect portrayal of Rousseau’s vision of heart-to-heart communication.

The identification of transparency as a way of achieving authenticity and its use to criticize representation sets the stage for Rousseau’s project of regaining transparency in the political arena. He prescribes significant measures to insure transparency through the formation of a political community in The Social Contract.

The social contract can be viewed as the political manifestation of the gathering that occurs during the festival. The general will captures the political and legal aspects of transparency, just as the festival captures social and emotional components of transparency.51 In the general will each person represents himself/herself, hence there can be no intermediary between the individual will and general will. For any such body will break the commensurate

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51 Thomas, "The Revolutionary Festival and Rousseau's Quest for Transparency," 669.
relationship between individual autonomy and the law\textsuperscript{52} Rousseau’s claim is that there needs to be complete transparency between them. To reconcile governance and freedom Rousseau grounds the general will in the idea of complete disclosure or transparency, understood as a state of affairs where citizens can gaze into each others’ hearts. Transparency is cast as both a public sentiment and a political ideal.

In \textit{The Social Contract} the innocence of nature is regained if people are willing to be transparent to one another and as a result trust each other. Rousseau’s key idea was that the achievement of knowledge of each other by citizens can establish the grounds for their acting together. It is this transparency of all to all that ultimately enables people to exist as free human beings, ending their solitude and servitude. When everyone’s life is open to everyone else, these separate individuals constitute a social body. Rousseau asks each man to \textit{see} and love himself in others for the greater unity of all. “Each individual citizen establishes the general will…since there is only one sovereignty, it resides in both in each individual and, thorough him, in a free people.”\textsuperscript{53} It is a simultaneous alienation of wills which citizens receive back from the general will whenever they voluntarily cede to it.

Interestingly, the social contract forbids any communication among citizens while determining the general will. Rousseau’s condemnation of linguistic and theatrical representation leads to his denouncing political representation. He claims, “the instant a People give itself Representatives, it ceases to be free.”\textsuperscript{54} Representation undermines political rule and threatens authenticity. Michael Sandel, in his book \textit{Democracy’s Discontent} argues that Rousseau “seeks to collapse the distance between persons so that citizens stand in a kind of speechless

\textsuperscript{53} Ibid.
transparence, or immediate presence to one another.″55 Indeed this was Rousseau’s ideal— a “mute eloquence” where hearts could directly communicate with one another without any mediation. Rousseau’s fantasy that “no mediation, no representation, nothing opaque between people and power or between words and things”56 can serve as the basis of public life, needs to be critically examined.

Rousseau distrusts public debate. Habermas aptly sums up his position:

Rousseau contrasted the dangerous appeals of silver-tongued orators with the harmony of assemblies. The volonte generale was more a consensus of hearts than of arguments. That society was governed best in which the laws corresponded to the already established mores. The simplicity of mores was a protection against ‘thorny discussions,’ where luxury corrupted healthy simplicity, subjugated one group to another and all of them to public opinion.57

Rousseau draws our attention in The Social Contract to the link between public debate and the formation of the general will.

If, when an adequately informed people deliberates, the Citizens had no communication among themselves, the general will would always result from the large number of small differences and the deliberation would always then be good. But when factions arise… the differences become less numerous and yield a less general result…there is no longer a general will and the opinion that prevails is nothing but a private opinion.58

From the above statement it is evident that the term deliberation for Rousseau does not mean discussion or debate; it only “refers to the choices people make” internally, “and not the process that leads to the choice.”59 Communication leads to a corruption of an individual’s opinion and taints the formation of the general will. Debate and argument would mean coercion through speech, factionalism and competing private wills which eventually can undermine the general

56 Thomas, "The Revolutionary Festival and Rousseau's Quest for Transparency," 655.
58 Rousseau, The Social Contract and Other Later Political Writings, SC II, 3, 60.
will. Therefore citizens should maintain their autonomy by avoiding exposure to the oratory of clever rhetoricians. This is clearly not a Kantian/Habermasian style of rational-critical discourse, Rousseau believes in a direct, unmediated democracy, not a deliberative one.

Rousseau does not think too much of ordinary citizens’ capacity to partake in politics.\(^{60}\) They first need to be prepared through the likes of the festival to identify with their fellow citizens and to form a bond that can enable them to recognize each other and their need to work together to achieve the common good. Hence they have a passive form of participation in politics, not an active one where they debate, judge and act on their ideas of governance. They simply endorse and then absorb the laws that have been laid out.

In order to regain freedom within society the Lawgiver has to intervene, to educate citizens and help them establish the general will. The “multitude”, according to Rousseau is incapable of acting on its own.

How will a blind multitude, which often does not know what it wills because it rarely knows what is good for it, carry out an undertaking as great, as difficult as a system of legislation? By itself the people always wills the good, but by itself it does not always see it. The general will is always upright, but the judgment that guides it is not always enlightened. It must be made to see the objects as they are, sometimes as they should appear to it….Hence arises the necessity of a Lawgiver.\(^{61}\)

The main task of the Lawgiver is to motivate and enable the people “secretly”\(^{62}\) through institutional reform to institute a general will. And in the process, he is to help the citizens overcome experiences of inequality and misrecognition which could inhibit the formation of the general will. The Lawgiver is to be a “founder of culture” just like Moses founded the Jews and Mohammed the Muslims. The founding itself is far from transparent as it requires, in Allan


\(^{61}\) Rousseau, *The Social Contract and Other Later Political Writings*, SC II, 6, 68.

\(^{62}\) Ibid., SC II, 12, 81.
Bloom’s words, “persuasion, deception, and force.” Moreover what is to ensure that the Lawgiver will have all the qualities Rousseau bestows him with and will legislate with the common good in mind? According to Judith Shklar the existence of such a person is nearly impossible.

These contradictions notwithstanding, despite the Lawgiver’s sincere efforts to influence public opinion and craft institutions, vestiges of the anti-democratic sentiment of inequality remain. The state’s attempt to mould public opinion only provokes resistance against it and it eventually fails to arouse the desired moral sentiments.

To Rousseau’s credit, he does partly recognize the utopian quality of his ideas. By his own account the type of transparency he has in mind will be short lived, if it can ever be realized, and so will be the democratic ideal achieved by the social pact. In his own words, “there is an inherent and inevitable vice which relentlessly tends to destroy the body politic from the moment of its birth.” The social inequality and mutual distrust which lead to the formation of the social pact in the first place lingers on, hindering people from seeing others as their partners in recognition. A participatory and cooperative democratic politics is constrained by incessant private wills which retain the memory of inequality and other social vices. The private will is unwilling to be transparent and the recognition of one’s own private breeds untrustworthiness and opacity. Thus the effects of \textit{amor propre} persist and consequently transparency is lost. \textit{The Social Contract} ends not by overcoming the democratic deficit but in fact by being unable to resolve it and the obstacles that were initially identified by Rousseau in the \textit{First and Second Discourse} (inequality, opacity, and mutual subjugation) persist.

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\begin{itemize}
  \item \textsuperscript{63} Clifford Owen and Nathan Tarcov, eds., \textit{The Legacy of Rousseau} (Chicago: University of Chicago Press, 1997), 160.
  \item \textsuperscript{64} Rousseau, \textit{Emile, or, on Education}, 119-20.
  \item \textsuperscript{65} ———, \textit{The Social Contract and Other Later Political Writings}, SC III, 10, 106.
\end{itemize}
In this way transparency is compromised by most means by which we act and communicate in the world. Memory, language, self-consciousness all have a potentially distorting influence, and Rousseau struggles to eliminate all of these, in his theoretical vision at least.

The utopian quality of Rousseau’s dream of transparency can be attributed to the fact that he uses the very same tools (reason and scientific rationality) which he criticizes earlier in the founding of his political order. Rousseau uses Enlightenment reason and rational principles to solve social and political problems and to control and grasp the workings of the natural world. This might seem contradictory to his claims, for example, in the *First Discourse* where he attacks Enlightenment science saying that “Astronomy was born from superstition… Geometry of greed; Physics of vain curiosities… the Sciences and the Arts thus owe their birth to our vices; we should be less in doubt regarding their advantages if they owed it to our virtues.” However, Rousseau models his political subject along the lines of the Cartesian ideal of the enlightened, rational, autonomous subject and fails to question it. In fact, as we have seen, the two main ideas of his political philosophy, the general will and the social contract, assume this subject and depend on it. In the end Rousseau falls into the Cartesian trap of privileging the self and making the self the basis of all that is human. From this stems his stress on individual freedom, liberty and autonomy. Thus, Rousseau develops this enlightened Cartesian subject into a political entity. The effects of *amor propre* endure as each individual’s sense of self intervenes in the process of transparency and in acknowledging the other. So, transparency is lost even before Rousseau realizes it.

There is a part of Rousseau that can be read as an anticipator of technical reason and its use in politics. It is often remarked that there is an interesting mix of liberal and authoritarian

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66 ———, *The Discourses and Other Early Political Writings*, The First Discourse,16.
elements in Rousseau’s writings. I argue that it is not so much authoritarian as technocratic or even utilitarian. Here I follow the lead of Thomas Spragens, who locates the origins of technocracy in Rousseau.\textsuperscript{67} Rousseau aims, he says, to find a delicate balance between the needs of the individual and that of society whereby the needs of both can be satisfied. However, in his attempt to craft such a society he places much value on social discipline. He clearly was suspicious of the abilities of ordinary people, as is apparent in his reliance on the figure of the Lawgiver in \textit{The Social Contract} and the Tutor in \textit{Emile},\textsuperscript{68} to achieve his purpose.

Admittedly, he was too concerned about the freedom and autonomy of the individual to admit any form of coercion into a political setting. But he did recognize that the Lawgiver would have to use the powers of persuasion and deception to get the ordinary people to accept his proposals, and this ultimately means relying on technocratic reason, which itself breeds the opacity of power transparency is designed to obviate.\textsuperscript{69}

\textsuperscript{67}This is illustrated in several passages in Rousseau’s description of the mysterious, omnipotent Lawgiver. Rousseau says the Lawgiver “must feel himself capable of, so to speak, changing human nature,” for he is to be “the mechanic who invents the machine.” \textit{———, The Social Contract and Other Later Political Writings}, 69. Quoted in Thomas Spragens, Jr, \textit{The Irony of Liberal Reason} (Chicago: University of Chicago Press, 1981), 109.

\textsuperscript{68} \textit{Emile}, one of Rousseau’s most influential works is an experiment at molding the ideal human being and citizen. Rousseau condemns modern education as it fosters values which are not conducive to his cherished ideals of transparency, citizenship, freedom and happiness. He accused the prevalent system of education of teaching the child to seek favor and reputation which lends itself to a loss of authenticity- men wear masks and this obstructs the communion of free and transparent beings. \textit{Emile} is Rousseau’s attempt at a thought experiment where in the boy Emile is “denatured” by being kept away from society under the auspices of a tutor. He is to be educated \textit{for society despite society}. He is to live under conditions of transparency, authenticity and revel in \textit{amor de soi} (love of self) as opposed to the damaging \textit{amor propre} (self-love). Once Emile is ready to enter society his education ensures that he is not “carried away by either passions or the opinions of men.” (Bloom, 225) His education is carefully planned out so as to avoid corrupt influences of society and restore transparency at the individual level. Ironically, Emile’s environment is highly controlled by his Tutor. Though the Tutor is pulling the strings and orchestrating every move, Rousseau maintains that the “appearance of freedom” must be preserved. Emile must always be allowed to act in a way that does not realize the masters sway over him. However, later on Emile does realize the Tutor’s impinging influence, but his education makes him grateful for this rather than being annoyed at the deception. Rousseau’s message here is that transparency and freedom need to be “created” it does not simply emerge organically as that time has passed. As a result Rousseau is willing to use corrupt means to restore transparency.

\textsuperscript{69}To be clear it is possible to have persuasion and deception without relying on technocratic means. Hence I would like to clarify the connection between persuasion/deception and technocratic reason. As Thomas Spragens argues the technocratic form of governance is neither a form of leadership nor representation, it is a form of creation. “The technocrat is a \textit{maker} of society.”\textit{Spragens, The Irony of Liberal Reason}, 115. Keeping this view in mind, Rousseau’s reliance on technocratic means is indeed geared towards \textit{creating} a transparent society. In Rousseau’s
Jean Starobinski in his seminal work on *Transparency and Obstruction* argues that Rousseau is willing to forgo immediate transparency for the long term goal of ensuring a transparent society. Hence an intervention (by Emile’s Tutor and the Lawgiver) is required to develop the capacity of and achieve a society free from mediation.\(^{70}\) Rousseau therefore valued transparency not merely as an intrinsic good but also as an instrumental good, and the problem arises with the latter usage. The use of technocratic reason is striking in his essay *Considerations on the Government of Poland*. Rousseau advises the King of Poland to restore transparency in the cities of Europe and avoid corruption by “arranging things so that every citizen will feel himself to be constantly under the public eye.”\(^{71}\) This kind of penetrative, disciplinary gaze is reminiscent of Foucault’s descriptions of surveillance.\(^{72}\)

Starobinski argues that for Rousseau transparency was simply a theoretical fantasy- a dream. Some of his critics on the other hand believe that Rousseau’s advocacy of transparency was meant to be the basis of political program that was pursued by the French Revolutionaries. My understanding is situated somewhere between these two positions. Rousseau did long for transparency, and he certainly might have recognized the difficulty in realizing his dream; nevertheless he consciously did shape concrete and influential political principles that did subsequently play a significant role in influencing political action.

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\(^{71}\) Rousseau, *The Social Contract and Other Later Political Writings*, Considerations on the Government of Poland, 244.

\(^{72}\) Greg Hill observes that “Foucault’s “characterization of a “discipline” that homogenizes, excludes…normalizes” bears a family resemblance to Rousseau’s small, unified republic. And when Foucault, like Tocqueville before him, points out that equality brings with it a homogeneity that calls immediate attention to difference, we must see in Rousseau’s little republic the danger of “a normalizing gaze, a surveillance (that) establishes over individuals a visibility though which one differentiates and judges them.”” Greg Hill, *Rousseau’s Theory of Human Association: Transparent and Opaque Communities* (New York: Palgrave Macmillan, 2006), 40.
Though transparency seemingly contributes to Rousseau’s project of freedom, history has shown that the implementation of this particular idea can lead to despotism. The impact of Rousseau’s idea of transparency on the French Revolution has been well documented by historians. Rousseau’s thought laid the foundation for “the language” and “cultural material” used by those responsible for creating the mentality of the French Revolution. It is said that Robespierre studied Rousseau’s writings in careful detail and was even able to recite passages from the *Letter to D’Alembert*. Following Rousseau’s footsteps, the people Robespierre led were vehemently opposed to the pomp, imagery and theatricality of the Kings who reigned during the Ancien Regime. Once the monarchy fell, Robespierre sought to replace this with a transparent style of politics by subjecting rulers to popular surveillance. Susan Maslan argues that the old politics of spectacle was designed to deceive the many; surveillance was designed to cut through this deception. Transparency is the mechanism that replaces monarchy, patriarchy and religion. It is thus essential for a secular citizen of the modern republic to monitor himself and internalize surveillance, as there is no higher judge, no Gods, Kings or fathers. It marks modernity’s transition from a “regime of oppression” to a “regime of repression”, from monarchical rule to self-governance. Maslan asserts that surveillance was a power that was widely disseminated. The citizens monitored their political representatives and in turn were subjected to the same gaze from fellow citizens; thus they were both subjects and objects of the gaze. This is contrary to Foucault’s thesis, where the subject and object of the gaze could not be the same, since power always comes from outside the body. He equates repression with oppression. But if Maslan is

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75 Ibid., 131.
76 In the context of the French Revolution, Susan Maslan claims that transparency in the form of surveillance can be understood as a democratic practice. Interestingly, she argues that surveillance is a vital part of republican democratic institutions (albeit not liberal ones). I concur with her view. In my concluding chapter, I discuss this relationship between democracy and surveillance in some detail.
right, we are not the typical Foucauldian prisoner trapped in barracks, factories, or schools but rather prisoners of freedom, where “surveillance and self-government are inextricable.”

The Revolution failed in large part because the transparency of power could not be achieved and it showed “democracy’s inability to follow its own theory in practice.”

Power could not be transparent to the people and language failed to be a translucent medium through which power could be transmitted due to the intervention of particular interests. The effort of the Jacobins to deny this breach resulted in an imaginary discourse about the people which ultimately produced the old absolutism. All forms of resistance came to be seen as obstacles which had to be destroyed, rather than transcended or absorbed. Soon every representative of the people came to be under suspicion by virtue of their very particularity. Seen in this light, the Terror seemed inevitable, making the Jacobin phase of the Revolution the revelatory moment that marked the potential incoherencies of democratic political culture.

In theory, transparency is meant to be emancipatory and foster autonomy, but in practice it cannot escape being enmeshed in power relations. The transparency of spaces and selves of a natural order is incommensurable with the social and political effects of human reason (order of the will) on people and spaces. Rousseau’s solution was to create a small, tightly-knit community, where “neither the shady stratagems of vice nor the modesty of virtue could have escaped the Public’s gaze and judgment.” In such an enclosed society disruptions to transparency can be dealt with. The revolutionaries ignored this crucial detail. It was not

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78 Furet, Interpreting the French Revolution 32.
80 Rousseau, The Discourses and Other Early Political Writings, The Second Discourse, 114.
81 Greg Hill explains this point rather well. He writes: “In the cities of Europe, it is impossible to know one’s fellow citizens in this way “because each, easily hiding his conduct from the public eye, shows himself only by his reputation”. (Rousseau, Letter to D’Alembert, 58-59) Here people feign virtue while pursuing selfish ends. But in all small communities, “where individuals always in the public eye, are born censors of one another and where the police can easily watch everyone, contrary to maxims must be followed.” (Rousseau, Letter to D’Alembert, 59) This is not just a casual observation but a description of conditions necessary for civic cooperation. Thus in his Considerations on the Government of Poland, Rousseau advances the proposition that “almost all small states, republics or monarchies, prosper for the sole reason that they are small, that all their citizens know each other and observe one another.” (Jean Starobinki) And when he concentrates his mind on the “strongest, most powerful” means of bringing “patriotism to the highest pitch,”

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possible to create “a completely surveillable space”\textsuperscript{82} in the modern, expanding cities of Europe and eventually Rousseau’s transparency came to be understood primarily as surveillance, resulting in a threat to autonomy.

**Kant**

I offer a selective reading of Kant with respect to the idea of publicity, one that ties in with the earlier discussion of Rousseau. The intention is to establish both similarities and differences with Rousseau’s argument, leading to greater clarity about their respective concepts of transparency and publicity.

Towards the end of the previous section it became clear that the application of Rousseau’s theory culminates in transparency being understood as surveillance, in a large part owing to Rousseau’s own formulation of the concept. Rousseau’s urge to capture “things, men and truths” as they are, forms a background for Kant’s idea of publicity. Kant diffuses Rousseau’s problem as he gives the idea of transparency an empirical form and keeps alive the practical possibility of fostering the values transparency represents through the idea of publicity. Kant institutionalized the Rousseauian ideal of transparency, turning it into the political norm of publicity. The Kantian notion of publicity involves several aspects ranging from the public sphere, authenticity, and the public use of reason, to freedom of the press, freedom of expression and above all a moral political principle – all of these are integrally linked to eliminating secrecy

\textsuperscript{82} Rousseau recommends a method “which is infallible in its effects if properly executed; this is to arrange things so that every citizen will feel himself to be constantly under the public eye.”(Government of Poland, 244).” Hill, *Rousseau’s Theory of Human Association: Transparent and Opaque Communities* 36.

\textsuperscript{82} Kukla, ”The Antinomies of Impure Reason: Rousseau and Kant on the Metaphysics of Truth-Telling,” 226.
from public life. The “Enlightenment and publicity are interrelated projects of making visible or public previously hidden secrets, to bring light to dark corners and narrow minds.”83

Times were uncertain in Germany during the latter part of the eighteenth century. The country was drained economically, politics was in a state of disarray and the moral atmosphere was oppressive. Hope, however, presented itself in the form of Enlightenment ideals of liberty and universalism. Those in search of rational emancipation nurtured this hope. A culture emerged that encouraged people to gather in small groups, i.e., book clubs, coffeehouses and salons, to reflect on current conditions. This was the source of the formation of the “public” and the public sphere, where it was possible to freely discuss acceptable standards for politics, culture and morality.84 Kant’s Enlightenment motto Sapere Aude, or “Dare to know”, was addressed to this audience, or “public.”

Kant’s usage of the term publicity was indeed different from preceding uses. Earlier publicity meant the way one appeared in public and played his/her public roles. In Kant this idea is reversed; his idea of the public person is one who is true to his/her self and is not defined by the way he/she appears in public. Much like Rousseau, Kant places emphasis on the idea of authenticity.

Publicity understood as “the public use of reason” is one of the main political themes in Kant’s project of Enlightenment. For Kant, Enlightenment meant the “courage to use one’s own understanding” and the way one achieves this in politics is through the principle of publicity, or “the freedom to make public use of one’s reason in all matters.”85 Kant presents publicity as a

83 Teresa Younga Chung, "A Suspicion of Performance: Discourses of Theatricality and Authenticity in Constructions of the Bourgeois Subject" (Duke University, 2001), 43.
means to develop and express one’s autonomy and rationality. Autonomy or intellectual independence has been a pivotal theme from Descartes through Rousseau to Kant. Kant characterizes autonomy as thinking and speaking for oneself, in one’s own (authentic) voice. Thus Kant equates authenticity with autonomy. This meant that men ought to be allowed intellectual freedom in order to develop and exercise their mental capabilities.

There has been significant academic debate about the meaning of the term publicity, which has been interpreted in a variety of ways, ranging from general knowledge (the public know or are able to know), mutual knowledge (the public knows, and they know that others know) to critical debate (where what everyone knows is being discussed). Critical debate is probably the most radical interpretation of Kantian publicity, but it is the one he probably would have hoped for. This would mean that a maxim should have to pass the test of public debate and be accepted by an actual public.

However, the publicity test in Kant’s view can also be understood as hypothetical. It can be conducted in private and does not necessarily demand actual publicity. If a claim is incompatible with the idea of publicity it can be discovered by “an experiment of pure reason.” A maxim would simply have to qualify to be deemed debatable rather than actually be debated, so the process of forming public opinion does not require an actual public. Kant justifies the hypothetical version of the publicity test by saying:

the idea of a public sense, i.e., a critical faculty which in its reflective act takes account (a priori) of the mode of representation of everyone else, in order, as it were, to weigh its judgment with the collective reason of mankind, and thereby avoid the illusion arising from subjective and personal conditions which could readily be taken for objective, an illusion that would exert a prejudicial influence upon its judgment. This is accomplished by weighing the judgment, not so much with the actual, as rather with the merely possible, judgments of others, and by

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putting ourselves in the position of everyone else, as the result of a mere abstraction from the limitations which contingently affect our own estimate. \(^{87}\)

At the same time Kant’s commitment to *actual* publicity is evident when he writes:

Reason must in all its undertakings subject itself to criticism; should it limit freedom of criticism by any prohibitions, it must harm itself, drawing upon itself a damaging suspicion. Nothing is so important through its usefulness, nothing so sacred, that it may be exempted from this searching examination, which knows no respect for persons. Reason depends on this freedom for its very existence. For reason has no dictatorial authority; its verdict is always simply the agreement of free citizens, of whom each one must be permitted to express, without let or hindrance, his objections or even his veto. \(^{88}\)

The philosophical basis for the argument surrounding the public use of reason is Kant’s belief that thinking well must be based on three maxims: “(1) to think for oneself; (2) to think from the standpoint of everyone else; (3) always to think consistently. The first is the maxim of unprejudiced thought, the second that of enlarged thought, the third that of consistent thought.” \(^{89}\)

I argue that respecting any of these maxims is possible only by communicating our thoughts with others.

Rousseau’s idea of conducting politics through a general will formed through a transparent meeting of hearts and minds (in order to avoid corrupt influences via speech) is rejected by Kant. Kant is committed to the position that reason requires communication with an audience to hone itself. He deviates from the Cartesian mode of reasoning where *lumen naturale* is not a result of debate and discussion but of private introspection, i.e., a solitary mode of clear and direct perception. Public debates, according to Descartes and Rousseau, only lead to uncertainties; the mind has to look inward to find true knowledge. Kant does acknowledge the

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need for self-transparency (like Rousseau and Descartes) as a first step towards attaining clarity of thought, but he insists that these thoughts need to be publicly expressed. Publicity at the very least means critical self-transparency (in the case of a hypothetical publicity test). However it is more fully realized when one can engage in actual dialogue with people from whose point of view one is trying to think. In his essay *What is Enlightenment?* Kant insists that citizens must communicate to the “entire reading public”\(^{90}\) (though he was very selective about the composition of this public).

The purpose of publicity in Kant is not to criticize or make everything transparent; it is rather, a means by which citizens can exercise their reason by giving expression to their deliberations. It is a pivotal part of the freedom of expression. Most significantly, Kant realized that a medium is required to communicate in this mode as opposed to a telepathic, heart-to-heart form of communication. We need to engage with others through speech and writing. Kant emphasizes this in his essay *What is Orientation in Thinking?*:

We do admittedly say that, whereas a higher authority may deprive us of freedom of *speech* or of *writing*, it cannot deprive us of freedom of *thought*. But how much and how accurately would we *think* if we did not think, so to speak, in community with others to whom we *communicate* our thoughts and who communicate their thoughts to us! We may therefore conclude that the same external constraint which deprives people of the freedom to *communicate* their thoughts in public also removes their freedom of *thought*, the one treasure which remains to us amidst all the burdens of civil life, and which alone offers us a means of overcoming all the evils of this condition.\(^{91}\)

In the essay *Perpetual Peace* Kant formally states “the principle of publicity” as: “all actions affecting the rights of other human beings are wrong if their maxim is not compatible with their being made public.”\(^{92}\) This is also referred to as the negative formula of the principle of publicity. If a political maxim cannot be openly expressed and publicly acknowledged then it

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\(^{90}\) ———, *Kant Political Writings*, What is Enlightenment? 55.

\(^{91}\) Ibid., What is Orientation in Thinking? 247.

\(^{92}\) Ibid., 130.
is morally impermissible. The simplicity of the maxim is deceptive and there is considerable ambiguity in it.

Kant and Rousseau both attempt to ease the potential tension between an autonomous, reflective, moral agent and the community within which this agent has to live and act. For Kant, in the sphere of politics publicity is what makes it possible to reconcile morality and political action. The publicity test is to the political sphere what the categorical imperative\(^93\) is to the moral sphere. It is the indicator or benchmark for ethical conduct in politics. The principle of publicity is derived from the categorical imperative.\(^94\) The idea of publicity was built into the categorical imperative as Kant envisioned it because he understood morality to be based on laws being made public. The ethical dimension to publicity is this: deception or a lack of transparency means that persons are not being treated as ends,\(^95\) so it diminishes the dignity due to persons and their ability to exercise reason. Hence by upholding the truth we fulfill our duty to acknowledge the rationality and free will of other human beings with whom we are engaged in communication.

Kant posits that the principle of publicity is “not only ethical (pertaining to the theory of virtue as per the categorical imperative) but also juridical (affecting rights of man).”\(^96\) Kant states that all legal claims are “publicly knowable”,\(^97\) without this, he says, there can be neither justice nor peace. It is particularly important to highlight the application of the publicity principle as a

\(^{93}\) The categorical imperative which forms the basis of Kant’s universalism and moral philosophy is modeled after Rousseau’s idea of the general will. Rousseau bases his idea of the general will on nature while Kant replaces nature with reason.


\(^{95}\) Kant writes in the *Groundwork for the Metaphysics of Morals* “Act in such a way that you treat humanity, whether in your own person or in the person of another, always at the same time as an end and never simply as a means.”———, *Groundwork for the Metaphysics of Morals*, trans. A.W. Wood (New Haven, CT: Yale University Press, 1785/2002), 429.

\(^{96}\) Kant, *Kant Political Writings*, Perpetual Peace, 125.

\(^{97}\) Ibid., 125.
tool promoting just governance. Kant posits that the general will comes into being only when legislation is made public. Conversely, only those governments that are acting in opposition to the general will need to fear the public’s freedom of thought and expression. The sovereign is supposed to keep the public’s interest in mind, and if he is doing so, he has nothing to fear. A ruler who fears open discussion is one who acts against the general interest of the public. A policy which “I cannot publicly acknowledge without thereby inevitably arousing the resistance of everyone to my plans, can only have stirred up this necessary and general (hence a priori foreseeable) opposition against me because it is itself unjust and thus constitutes a threat to everyone.”

The categorical imperative brings clarity to one’s intentions (spirit of the law) while the principle of justice tests one’s actions in the domain of politics (the letter of the law). Hence “publicity is composed of the categorical imperative and principle of justice. The two together are necessary and sufficient conditions for legitimate (political) action. They are individually necessary but jointly sufficient.”

The negative publicity test functions mainly as a hypothetical test as it only seeks formal compatibility with the categorical imperative and principle of justice. Hence it does not require actual publicity. From Kant’s point of view the mere act of keeping a maxim secret does not in any way reduce its moral legitimacy, as many of our maxims are unpublicized. However, if one’s ends or goal can be realized only by keeping one’s maxim secret, then the maxim most

98 Ibid., 126.
99 John Ceballes, "Hearing the Call of Reason: Kant and Publicity" (Indiana University, 2007), 51.
100 Kant defines positive publicity as “All maxims which need publicity (in order not to fail in their end) harmonize with right and politics combined.” The positive principle of publicity can be applied to those maxims that need actual publicity to bring about their fruition (perpetual peace for instance). The positive principle is far less common than the negative test and as Ceballes argues it applies to those maxims that have already passed the negative test.
likely lacks legitimacy, unless it is compatible with the categorical imperative and principle of justice. John Ceballes argues:

One can easily think of situations in which secrecy or discretion is required in order to achieve some end. Stratagems used in sports or even business may require secrecy, otherwise the ends in question, scoring a goal or submitting the lowest bid might be frustrated, but secrecy is not inherently immoral. In such examples the rights of other have not been clearly violated, nor has the moral dignity of the persons involved been compromised.¹⁰¹

Therefore though Kant does endorse openness, his negative principle of publicity does not demand complete transparency. This sets him apart from Rousseau, who relentlessly pursues a transparent utopia purged of any kind of secrecy. Kant’s concern is only to eliminate morally incompatible forms of secrecy from politics. His famous slogan “dare to know” defines the enlightenment as an epistemological enterprise, which lays the foundation for equating knowledge with power. Democratic politics is accompanied by a presupposition that through publicity the workings of power can be transparent to critical democratic citizens. However, Kant realizes that political power can be accountable but never fully transparent. Thus his idea of publicity allows room for secrets and opacity that invariably accompany political life.

I argue that Rousseau and Kant diverge significantly on the relationship between autonomy and representation. For Rousseau, there is a tension between autonomy and representation. He advocated a form of direct democracy as a result of his aversion to representation. Rousseau’s argument is that the will cannot be represented. His version of transparency, unlike Kant’s publicity (which is predominantly speech-based), is a form of communication based purely on the optical mode - “the impression of the word is always weak; one speaks to the heart far better through the eyes than through the ears.”¹⁰² Kant’s idea of publicity encompasses deliberation, which plays a crucial role in making representation more

¹⁰¹ Ceballes, "Hearing the Call of Reason: Kant and Publicity", 63.
¹⁰² Rousseau, Emile, or, on Education, 321.
compatible with autonomy. Citizens are thus connected to the rulers and are able to make their voices heard and pass judgment on their activities. In this way representation can also promote political participation as the citizens deliberate not just on matters of vote (as implied by Rousseau) but on policy issues as well.

In his preface to the *Critique of Pure Reason* (1787) Kant proposes a radical shift in the positioning of the subject. There was no longer any expectation of unmediated pure transparency: Kant instead talks about representation. According to Kant it is not direct perceptions which enable us to see and know things; instead what we see and know simply conforms to our mode of representation.

Hitherto it has been assumed that all our knowledge must conform to objects. But all attempts to extend our knowledge of objects by establishing something in regard to them *a priori*, by means of concepts, have, on this assumption, ended in failure. We must therefore make trial whether we may not have more success in the tasks of metaphysics, if we suppose that objects must conform to our knowledge.

We should then be proceeding precisely on the lines of Copernicus' primary hypothesis. Failing of satisfactory progress in explaining the movements of the heavenly bodies on the supposition that they all revolved round the spectator, he tried whether he might not have better success if he made the spectator to revolve and the stars to remain at rest.103

Kant’s Copernican revolution avoids Rousseau’s trap. Unlike Rousseau, Kant does not believe that *imposing* order disrupts the process of transparency or the ability to convey the truth. Kant favors representation, as there is a shift in his conception of transparency to a more limited and targeted form, namely publicity. For Kant the idea of representation is not just a practical matter; he believes that it fosters political autonomy as well. Representation’s legitimacy is based on the fact that citizens and rulers are rational and autonomous. Autonomy for Kant implies the use of reason and the ability to think “as if” one were in the place of the other and thus able to

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universalize a set of actions. Therefore among rational, autonomous beings representation is neither paternalistic nor is it a form of domination because it assumes a kind of rational equality.

For Kant, man is autonomous because his reason presents itself as the law he must obey; his notion of autonomy is defined as obedience to rational laws. Kantian autonomy is thus restricted by the limits of reason and has the moral burden of being transparent to one-self in order to distinguish self-interest from the public interest. On this point Kant and Rousseau are in agreement: the self must be transparent and authentic. The difference emerges when Kant shifts the emphasis from Rousseau’s project of molding transparent individuals to constructing a transparent political space. ¹⁰⁴

Since the principle of publicity is only a subset of Kant’s philosophy, it runs into problems owing in part to Kant’s broader philosophical goals. Kant honors a series of hierarchical dualisms, reason rather than emotion, universality rather than context, objectivity rather than intersubjectivity, which in hindsight (in the eyes of the late and post-moderns) have proven to be problematic. Though various aspects of the idea of publicity do nurture autonomy, the unclear way Kant espouses the idea may not be sufficiently empowering. There are several limitations to his version of the publicity principle that could potentially impair autonomy.

Publicity is required to judge the morality of an act but by itself it is not sufficient to make an act moral. As Kant says “this principle is, furthermore, only negative, i.e., it only serves for the recognition of what is not just to others.” Kant gives us the example of a ruler who publicizes his aggressive intentions against a neighboring state. ¹⁰⁵ This is an act of publicity with

¹⁰⁴ In an attempt to demonstrate the practical use of the idea, Kant extends the idea of publicity to the realm of international affairs. Kant’s idea of perpetual peace in a world filled with democracies depends on the idea of truth, openness (transparency) and information sharing between democracies. It assumes that politics will be conquered by a universal morality. Where international right is concerned he cites several examples wherein the lack of publicity leads to injustice. Through these Kant asserts that secrecy leads to injustice, thus rejecting Machiavellian notions of political prudence. ———. *Kant Political Writings*, 127.

¹⁰⁵ Ibid., Perpetual Peace, 127.
a negative consequence. Merely passing the publicity test alone does not make a maxim completely ethical; it is simply one of the necessary conditions that need to be met, but it is no way sufficient to determine the rightness of the maxim.

Another problem with the concept lies in its opposition to particularities: it fails to take into consideration the particular social and political conditions on which publicity is ultimately based. Kant’s expectation was that the principle of publicity will abstract from and transcend individuals’ particularities arising from personal and institutional settings. As a result there is a subordination of particular interests to the interests of the general public in the name of universalization, which can result in a kind of hegemony and can perpetuate power relationships at the expense of the particular.

The principle of publicity is limited to the reasoning public, those capable of participating in matters of governance. 106 “By the use of one’s own reason” Kant means “that use which anyone may make of it as a man of learning addressing the entire reading public.” 107 Kant’s Enlightenment is therefore restricted to “men of learning” and “the reading public.” He explicitly excludes large sections of the population from public life. Kant draws a distinction between citizens and “protected fellow subjects”, i.e., women, children and those with no property. According to Kant these groups cannot directly partake in legislation as they are incapable of autonomous reason. It has been argued that in theory and over the long term Kant did want everyone to emerge from his/her state of passivity to “active citizenship”, to be achieved through

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106 Though Kant restricts the idea of publicity to “men of learning” Simone Chambers argues that they “do not always need actual or full publicity because men of learning are already committed to public reason as scholars. ...men of learning will naturally and diligently seek out arguments that appeal not to a specific group with a specific set of interests, but rather, reasons that could persuade regardless of one’s position in life or group membership.... Thus men of learning for Kant would naturally recreate a debate that incorporated the widest set of views and objections possible. That is, they would intellectually recreate the conditions of full publicity.” However Chambers does admit that “most people need actual publicity in order to reason at their best.” Simone Chambers, “Behind Closed Doors: Publicity, Secrecy, and the Quality of Deliberation,” Journal of Political Philosophy 12, no. 4 (2004): 31.

107 Kant, Kant Political Writings, What is Enlightenment? 55.
education. Kant stressed the importance of public education, which would instill qualities of discipline, rationality, morality and civility, required for public participation. However, Kant’s qualified affirmation to freedom of expression and communication does call into question his commitment to publicity as an end in itself. Since he confines the public use of reason to men of learning and does not protect everyone’s right to express his/her views, it can be inferred that publicity for Kant is merely a means to eliminate injustice stemming from state secrecy and a stepping stone in his quest for Enlightenment and progress. In this way publicity takes on an instrumental value rather than being an intrinsic good to be pursued for its own sake.

As noted earlier, peculiarly, the publicity test does not require actual publicity and can be made hypothetical. Even when Kant does frame the matter in such a way so as to mean actual public debate, there are boundaries to freedom which citizens must set for themselves. For instance, freedom of opinion cannot translate into any form of resistance to the government’s policies, and oddly, opinions must be expressed in one’s capacity as a private citizen and not in any official role. Kant clearly distinguishes between obedience and using one’s reason. From a ruler’s viewpoint, Kant states, you (the public) must be allowed to “argue as much as you like and about whatever you like, but obey!” For example, one can argue about the tax system, yet s/he has to obey the rules and pay her/his taxes. Thus the public use of reason does not have a revolutionary thrust; however it is still progressive in its political implications. It affords citizens the opportunity to think for themselves, and Kant’s hope is that the most reasonable views will prevail in society, thus mitigating extreme superstition and dogmatic viewpoints that thrive under secrecy and lack of transparency. The principle of publicity was presented as a legitimate alternative to the absolutist state, where secrecy prevailed. Kant treads a fine line between two

109 Kant, Kant Political Writings, What is Enlightenment?, 59.
very different kinds of politics, advising the sovereign to permit freedom of expression while cautioning citizens to use their reason only in their private capacity as men of learning and not in any official one as employees of the state. This weakens the impact of the idea of publicity as a political principle.

Conclusion

In Kant publicity is a regulative idea, not the utopian one it is in Rousseau. Hence the two diverge in their methods of gaining political autonomy. Rousseau did not encourage public debate for the fear that public opinion might be manipulated. But Kant, in contrast, endorsed public debate as the instrument that would keep politicians honest and expose corrupt motives. His idea of publicity entails a speech-based communicative ethic, which assumes that reason needs to be freed from tutelage, monitoring and guidance. The public use of reason, i.e., debate, is essential for social and political progress, and if beliefs are not brought to the light of reason, they cannot be tested. However, in a similar vein to Rousseau, Kant too uses the idea of self-transparency where the subject needs to attain self-clarity through reflection in order to understand itself as autonomous. But for Kant this is followed by the need to make moral self-knowledge public by communicating with a larger audience. Kant’s publicity thus includes Rousseau’s image of self-transparency, but it goes further as a practical political principle. Despite its limitations, Kant’s work on publicity has been preserved and widely incorporated into what is today known as deliberative democratic theory by thinkers such as Habermas and Rawls.

The word transparency has often been used interchangeably with Kant’s idea of publicity. Is it correct to treat these two ideas as one and the same, and if not, what sets them apart? I argue that Rousseau and Kant articulate two different conceptions of the philosophical vision of
transparency. Their legacy is, then, a split in the way we think about the idea of transparency. The avatar of transparency that demands an all-encompassing form of visibility results in surveillance, where it is meant to serve as an instrument of discipline. This affects all realms of social and political life, and everyone ends up watching everyone else. But transparency can also be construed as publicity, an institutional arrangement designed to ensure the open workings of government and the “public’s right to know.” Publicity is also associated with visibility; however there is a choice regarding the information that is made available. It does not imply constant vigilance vis-à-vis one another; rather it demarcates certain areas such as public life as places open to scrutiny.

In comparing Rousseau and Kant on the idea of transparency my purpose has been to draw out the tensions within the concept and to lay the foundation for questioning conventional ways of thinking about the subject. In the next chapter I shall carry this story forward and see how the idea of transparency gets further transformed by Bentham.
II. Bentham, Publicity and the Panopticon: Negotiating the Autonomy, Utility Dialectic

A whole kingdom, the great globe itself, will become a gymnasium, in which every man exercises himself before the eyes of every other man. Every gesture, every turn of limb or feature, in those whose motions have a visible influence on the general happiness, will be noticed and marked down.
- Jeremy Bentham

Introduction

Thomas Spragens observes that “Rousseau stated the qualifications of the technocratic Legislator…and Bentham applied for the job.”111 I pursue this line of thought in a discussion of Bentham and the idea of transparency. Bentham intended to turn governance into a science. He wanted to circumvent “politics” by using a rational approach to address social and political issues. Politics was synonymous in his mind with a wide array of human passions, such as competition, interests and discrimination, which in turn led to policy outcomes based on bargaining, rhetoric and deception. Bentham sought to replace this irrational mode of decision-making with one based on reason and technical rules. He uses the idea of transparency predominantly as an instrument, wherein a totalizing and penetrating form of vision is used to enforce discipline, deter crime and combat corruption. “Transparency, classification, calculation and utilization”112 are the cornerstone principles of Bentham’s theory. Everything must be accounted for, classified and made useful within a transparent system. For Bentham the success of public institutions depended on the collection and use of information. The dynamic at work

here is twofold: information gleaned through transparency increases power, and at the same time transparency also keeps a check on the abuse of power.

In Bentham transparency acquires two seemingly paradoxical meanings through his use of the concepts of publicity and panopticism. This goes to the heart of my thesis and I examine this seeming contradiction at some length. On the one hand, transparency is associated in Bentham’s thinking with autonomy and emancipation, and there is a continuation of the Kantian notion of empowering the public via the “right to know.” On the other hand, it also becomes a threat to individual autonomy by being explicitly linked to surveillance and the exercise of power in the way that is illustrated in the idea of the Panopticon. In Bentham the principles of autonomy and utility intersect, and the latter takes precedence. This has serious implications for the later development of the concept of transparency in political thought.

Kant and Bentham were both proponents of publicity, but their reasons for doing so differed substantially. For Kant publicity was the foundation of political right, and the public use of reason was essential for individual autonomy and the achievement of progress in enlightenment. Bentham’s idea of publicity was a technique to be used to fulfill the principle of utility - “greatest happiness of the greatest number.” He believed that empowering the people with the means of exercising sovereignty was the only way to make the government’s interest and the public’s interest coincide. Bentham explicitly says that the idea of publicity is based on a “system of distrust.” This meant that all legislative proceedings should be open to public monitoring, which can also be understood as surveillance. I argue that the normative orientation of the principles of Bentham’s idea of publicity and the Panopticon are similar in their emphasis
on visibility, accessibility and efficiency. The principle of publicity helped maintain control over power elites while the Panopticon helped control prisoners.\textsuperscript{113}

In keeping with the Enlightenment drive for transparency, in the mid 1780’s Bentham proposed the Panopticon (in Greek it signifies an ‘all-seeing place’) as an instrument of penal reform. As the meaning of word suggests, his purpose was to make prisons “transparent.”\textsuperscript{114} I treat Bentham’s writing on this subject as an illustration of larger political and social principles. Though Bentham’s Panopticon was never actually constructed, it had a definite influence on modern institutional design and, through it the subsequent functioning of society. Having delineated and dissected the principles of publicity and panopticism, I spend the remaining portion of this chapter discussing the theoretical and political implications of the two ideas of autonomy and utility.

\textit{Technocratic-Utilitarianism}

Bentham was both a technocrat and utilitarian. I argue that the concept of transparency in use today is mainly a product of technocratic utilitarianism. Hence, it is essential to understand the meanings of these two terms.

Thomas Spragens best explains the origins of technocracy:

The conceptual foundations of technocracy arose from the refinement and politicization of key epistemological motifs. Models of “knowing activity” that originated with Locke and Descartes were logically purified and freed from ambiguities and limitations. These purified epistemological conceptions were then converted into anthropological models-ideas about human nature. Finally these anthropological conceptions became the basis for the political roles and functions of technocratic society.\textsuperscript{115}

\textsuperscript{115} Spragens, \textit{The Irony of Liberal Reason}, 94.
Technocrats believe that society can be rationalized by the strategic application of scientific knowledge. The traditional problems in politics are thought to be a result of unscientific thinking. In the new scientific age it was thought that traditional political problems would disappear and all that would remain was the challenge of technique and implementation. Government would be replaced by governance, where governance meant “a government of laws, not men.” Bentham portrayed himself as the “Newton” of this new kind of legislative science.\textsuperscript{116} The technocrat’s primary tools are legislation and education. Both allow one’s environment to be controlled in such a way that pleasure involves “socially useful acts” and pain involves “socially mischievous acts”\textsuperscript{117}, thus forming a perfect pair with utilitarianism. The problem with technocracy is that “in its emphasis on the logical, practical, problem-solving, instrumental, orderly, and disciplined approach to objectives, in its reliance on a calculus, on precision and measurement and a concept of a system, it is a world-view quite opposite to the traditional and customary religious aesthetic, and intuitive modes”\textsuperscript{118} of human experience; the result is automation, depersonalization and alienation.

Utilitarianism is based on the assumption that human beings operate on a calculus of pleasures and pain. The way to manage these pleasure-pain machines is rational discipline. Bentham even devised a mathematical formula in order to accurately quantify pleasure and pain. In this way punishment and compensation can be perfectly dealt out, thus allowing for complete and precise control over individuals and society.

In utilitarian theory there is no concern about infringing on liberty or natural rights. Natural rights were deemed by Bentham to be “nonsense upon stilts”- an empty metaphysical

\textsuperscript{116} Ibid., 117.
\textsuperscript{117} Ibid., 115.
concept exposed as such by scientific knowledge. \textsuperscript{119} Spragens shows why this complicates the task of interpreting the early history of liberalism:

A great deal of confusion was introduced into much of the political theory of the late eighteenth and early nineteenth centuries by the failure to distinguish clearly between these two different conceptions of liberalism. Was the moral basis of a liberal society natural right and the means towards its attainment a human will rationally oriented to self-evident moral and political truths? Or was the moral basis of liberal society instead utility and the means toward its attainment the equilibrating and ordering force of nature? \textsuperscript{120}

These (two strands of liberalism) are very different conceptions, and as becomes more apparent later on, they lead to significantly divergent political trajectories. Towards the end of this chapter, I explain that by eschewing rights-talk utilitarianism fails to guarantee individual autonomy. Also, I argue that this potent combination of technocratic-utilitarianism could even lead to totalitarianism.

\textit{Publicity}

\textit{The eye of the public makes the statesman virtuous.} \textsuperscript{121}

Gaonkar and McCarthy argue that with respect to the idea of transparency, Bentham’s essay \textit{Of Publicity} can be read in two radically different ways, following either Habermas or Foucault. A Habermasian reading interprets Bentham’s version of publicity as an extension of Kant’s emancipatory idea, one that promotes rational-critical discourse. This perspective also views publicity as an important part of the emerging “bourgeois democratic ideology.” \textsuperscript{122} A Foucauldian reading on the other hand suggests that it was Bentham who was pivotal in turning the Enlightenment project into a disciplinary one. This view does not distinguish between

\textsuperscript{119} Spragens, \textit{The Irony of Liberal Reason}, 111.
\textsuperscript{120} Ibid., 87.
\textsuperscript{122} Gaonkar and McCarthy, ”Panopticism and Publicity: Bentham’s Quest for Transparency,” 550.
Bentham’s ideas of publicity and panopticism, as Foucault believes that both are equally a part of the surveillance apparatus. When discussing Bentham it is easy to be either too harsh or overly sympathetic; I hope to be neither. My interpretation of Bentham with regard to the idea of transparency leans more towards Foucault’s view of the matter. I pay heed to Habermas’ version but argue that the evidence from Bentham’s own writings weighs against the Habermasian view.123

In a sense, Bentham does share Kant’s optimism while espousing the principle of publicity he favors, which is that publicity fortifies reason by furnishing it with the required information, thereby making accurate observations and correct judgments possible. Bentham hopes that through publicity “a habit of reasoning and discussion will penetrate all classes of society.”124 Akin to Kant, an important function of publicity for Bentham is the elimination of secrecy. Transparency fosters legitimacy while secrecy breeds public disaffection. Bentham stresses the public’s role as a watchdog: “if the public were excluded, it would always be led to suppose that the truth was not reported, or at least that part was suppressed.”125 However, though Kant and Bentham wrote in the same time period, they had very different conceptions of the philosophical basis of publicity. Bentham’s theory of publicity is based on the principle of utility, where publicity is an instrument that is used to determine right and wrong. Kant’s concept of publicity is based on the “public use of reason” and is linked to morality in politics. For Kant, publicity in and of itself is a standard for right and wrong: “all actions affecting the rights of other human beings are wrong if their maxim is not compatible with their being made public.”126

123 To be clear, I engage in a discussion of Foucault’s and Habermas’ analysis on transparency and Bentham in the next chapter. My focus in this chapter is on Bentham’s own views on publicity and the Panopticon.
126 Kant, Kant Political Writings, 130.
As I have argued in the previous chapter, Kant’s definition of publicity is not confined to visual transparency. In Bentham’s case publicity is synonymous with the idea of transparency where the emphasis is on optical surveillance. Bentham’s focus is on the utilitarian aspects of publicity; this dilutes the Kantian emphasis on rights, autonomy and freedom, making it mean just full visibility of government operations through freedom of the press and publicity of parliamentary debates.

Bentham understood that empowering the people with the means of exercising sovereignty was the only way of making the government’s interest and the public’s interest coincide. He links publicity with the free press and declares that “under the auspices of publicity no evil can continue.”

The role of the press, he says, is to gather, select and publish information about the government and its activities in a way that is suitable for public consumption and also to inform the government about public opinion on issues. These criteria can be met only of the press is a free one.

Freedom of press is instrumental to the formation of what Bentham terms the “tribunal of public opinion.” Public opinion is one of the tools through which the public can control the government. Bentham sought to give access to information about parliamentary activity which could enable better opinions and judgment to prevail among the public. Bentham divides the public into three categories. The largest group consists of those who have no involvement in

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In keeping with the utilitarian view, Bentham views morality as being defined by a cause and effect relationship linked to one’s actions. If pleasure is the outcome then those actions are good and actions that result in pain are bad. This pleasure/pain calculation is integrally linked to self-interest. Every individual seeks to maximize his/her own pleasure and minimize his/her own pain. This being the case one individual’s pleasure could translate into another’s pain and vice versa. Hence Bentham concludes that the community’s interest is based simply on an aggregate of individual pleasures, “the sum of interests of the several members who compose it.” Mary Peter Mack, The Bentham Reader (New York: Pegasus, 1969), 85.


politics. They are not capable of participating in public affairs as they “have not time to read, nor leisure for reasoning.”\(^{129}\) The second group consists of those who are incapable of forming their own opinions and hence make political decisions based on the judgment of others. The third and smallest group consists of those who are capable of making their own judgments, and this group is the “committee” whose opinions form the “tribunal of public opinion.” Bentham writes, “in order to decide whether publicity will be injurious or beneficial, it is only necessary to consider the class which judges; because it is this alone which directs opinion.”\(^{130}\) He claims that the judgment and opinions of the last two groups will permeate down to the masses, i.e., those who have no time to take part in politics. Hence, in Bentham’s estimation publicity as a means of promoting rational-critical discussion is a tool relevant only to the elite. Publicity is important in the formation of elite opinion as this has an indirect, trickledown effect on the other two classes. This casts a shadow on Bentham’s professed commitment to democracy and the idea of popular sovereignty.\(^{131}\)

The link between transparency and power is made explicit by Bentham in his theory of publicity, which treats publicity as a form of distrustful surveillance. Publicity is based on a “system of distrust”- the public’s distrust of the state and its officials.\(^{132}\) Bentham’s proposal therefore is surveillance of the state through the use of public opinion.

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\(^{131}\) There is no inherent tenet in utilitarianism that opposes democracy. A utilitarian would endorse democracy based solely on whether or not it would maximize a societies’ happiness. Bentham argues that the masses are not capable of voting wisely for the reasons mentioned above, hence if they vote incorrectly they would be reducing rather than increasing happiness levels. The example at hand, with regard to the consequences of democracy, was the reign of terror during the French revolution which spread misery among the people. It was these factors that caused Bentham to resist democracy initially. However, later on under the influence of his young follower James Mill, Bentham did recommend a limited form of democracy.

\(^{132}\) Bentham anticipates opposition to his unconcealed distrust and justifies this: “Is it objected against the regime of publicity, that it is a system of distrust? This is true; and every good political institution is founded upon this base, whom ought we to distrust, if not those to whom is committed great authority, with great temptations to abuse it?”
According to Bentham “suspicion always attaches to mystery,” and publicity helps eliminate mystery, thus increasing public's confidence in the government. It serves, in other words, as a deterrent to legislators acting against public interest or being corrupt. The argument unfolds in this way:

The greater the number of temptations to which the exercise of political power is exposed, the more necessary is it to give to those who possess it, the most powerful reasons for resisting them. But there is no reason more constant and more universal than the superintendence of the public. The public compose a tribunal, which is more powerful than all the other tribunals together. An individual may pretend to disregard its decrees—to represent them as formed of fluctuating and opposite opinions, which destroy one another; but everyone feels, that though this tribunal may err, it is incorruptible.

Bentham’s logic here is that policy makers are susceptible to corruption and the public can watch over those in power. As J.S Mill points out, Bentham’s political proposal was focused on “riveting the yolk of public opinion closer and closer round the necks of all public functionaries.” As a result, policy makers are subject to the constant, anonymous gaze of the public, which ensures honesty in the performance of their duties. Honest officials would not have a problem with public opinion, since they had nothing to fear.

It has been pointed out that certain parts of the essay On Publicity closely resemble the Panopticon Papers in advocating disciplinary techniques and surveillance over the body. Bentham uses a similar strategy for controlling the behavior of prisoners and legislators. However the main difference is that legislators engage in “political speech.” Legislators cannot

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*Gaonkar and McCarthy note that these two works were written in a space three-four years and were published in the same year. Gaonkar and McCarthy, “Panopticism and Publicity: Bentham’s Quest for Transparency.”*
be controlled by ocular surveillance alone; political speech needs to be monitored as well and for this reason Bentham proposes the idea of publicity.

To some extent Bentham does think of publicity in the conventional sense as debate, discussion and access to information, thus promoting rational-critical-discourse. However, Bentham views political speech as unreliable and riddled with duplicity. Hence “publicity driven by graphic technologies of writing and print is a corrective strategy for disciplining speech rather than an arrangement for its public transformation into rational critical discourse.”\(^{136}\) Bentham values writing over speech as it can be reviewed visually- an “ocular strategy for regulating speech.”\(^{137}\)

There is ample evidence that in his recommendations for publicity Bentham does treat political space, i.e., Parliament, as a Panopticon, though he does not explicitly draw the analogy. Bentham even wrote about the specific clothes (so as to distinguish between legislators and the public) and seating arrangements for legislators as a means of keeping tab on their attendance.\(^{138}\) Their bodies were to be subject to the same kind of surveillance techniques as prisoners in the Panopticon. However, unlike prisoners legislators could remove themselves from the gaze and avoid surveillance by absenting themselves from the sessions. Bentham even tried to remedy this by keeping an attendance register, imposing fines on absentees and prison terms on those who were not impressed by the fines.\(^{139}\)

The subtle difference in meaning between publicity and transparency emerges here. Originally, Kant defines publicity as the public use of reason. Publicity according to this view is not merely the vehicle through which citizens are informed but it involves the added element of

\(^{136}\) Ibid.: 551.
\(^{137}\) Ibid.: 565.
\(^{138}\) Ibid.: 560.
\(^{139}\) Ibid.: 561.
“deliberations and reflections about political questions.” For Kant, publicity and transparency differ in meaning. His idea of transparency specifically refers to self-transparency where the power exercised is over oneself. In Kant’s writings the word public in publicity predominantly refers to “shared” or “social”, whereas in Bentham it stands for “transparent.” Transparency in Bentham is a silent, omniscient gaze, the meaning of which becomes fully apparent in the Panopticon. For Bentham the source of power is external, as when someone else exercises “power through transparency” over you, stripping the surveilled of all autonomy.

The idea of publicity when construed as the “the ideal of public reason” can be empowering as it involves openness, free speech and deliberation. But by equating publicity with transparency Bentham loses the Kantian element of emancipation and critical thinking. His distrust of free speech and his total reliance on vision is problematic as it leads to a loss of autonomy.

**The Panopticon**

Bentham’s Panopticon penitentiary is a project full of contradiction and ambiguity; a prison that is at the center of philosophical disquisition, managed by a gaoler who has been depicted both as a ruthless capitalist entrepreneur and as a personification of the utilitarian state. It is an individualist enterprise that seems to presage totalitarianism.

Bentham’s Panopticon was largely ignored by scholars until the late 1970’s. But it is fair to say that Michel Foucault generated renewed interest in the subject in the last three decades. Foucault, and others who share his view, see the Panopticon as a great symbol of modern life and a sinister apparatus that enforces social discipline. Those holding the opposite view believe that

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the Panopticon was inspired by humanitarian ideals. For instance, Janet Semple, in her book *Bentham’s Prison* argues that Foucault’s aversion to the Panopticon is based on a “claustrophobic distrust of the world.” She defends Bentham’s views by presenting the Panopticon as the invention of a “kindly man looking for ways to ameliorate the lot of the poor.”142

However, there is hardly any dispute that the Panopticon gave rise to a new form of power, exercised through transparency, which emerged in the eighteenth century. The only debate is about the moral standing of this power.

I preface my discussion of the Panopticon with an examination of the utilitarian critique of the correctional practices to which Bentham was responding. Given the brutal, unfair practices of the criminal justice system in Britain it was easy for Bentham to attack it. He alerted readers to “the corrupt and hypocritical use of a noble ideal (justice) to dignify morally indefensible social practices. In violation of the principle of proportionality which is essential to the concept of justice, the British criminal code provided the death penalty for dozens of rather petty crimes.”143 Up to this point Bentham’s reasoning is unproblematic; however, it then takes a technocratic turn which results in radical consequences. Instead of attacking the objectionable practices Bentham attacks the very concept of justice on which they are ostensibly based, which he then seeks to overthrow. In Karl Menninger’s words:

> The very word “justice” irritates scientists. No surgeon expects to be asked if an operation for cancer is just or not. ………Behavioral scientists regard it equally absurd to invoke the question of justice…..with a man who cannot resist an impulse to assault somebody. This sort of behavior has to be controlled; it has to be discouraged; it has to be stopped. This to the scientists is a matter of public safety and amicable coexistence, not of justice.144

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142 Ibid., 314-15.
143 Spragens, *The Irony of Liberal Reason*, 185.
In like manner, for Bentham the norm of justice needed to be replaced by the norm of utility. This is a problem because, if replaced, the “standard of justice” all too easily can morph into an “ethic of expediency” that permits (and has permitted) the violation of human rights.\textsuperscript{145} I worry that by ignoring rights technocratic-utilitarianism could potentially become a pathway to totalitarianism and the totalitarian state. I elaborate on this point towards the end of this chapter.

Though Bentham condemned the torture of criminals and was against the death penalty, arguably compassion was not the motivating force behind his prison reform proposal as much as it was a consequence of it. He opposed the prevailing method of punishment based on the principle of utility. In fact he mocked those who raised objections based solely on humanitarian grounds:

\begin{quote}
\textit{Abolish any one penal law}, merely because it is repugnant to the feelings of the human heart, and if consistent, you \textit{abolish} the whole penal code; there is not \textit{one} of its provisions that does not, in a more or less painful degree, wound the sensibility. All punishment is in itself necessarily odious: if it were not dreaded, it would not effect its purpose; it can never be contemplated with approbation, but when considered in connection with the prevention of crime against which it is denounced.\textsuperscript{146}
\end{quote}

It was Bentham who pointed out for the first time that the power of body over body is inferior to the power of mind over mind– as the former is less efficient. The criminal is not to be physically punished but mentally reformed. By manipulating the mind of the criminal, the deviant individual could be domesticated and transformed into a useful member of society. Descartes’ mind-body dualism did not permit the workings of the mind to be linked to the workings of the body. Part of the Enlightenment project was to overcome the Cartesian dualism by showing that it was possible to control the mind. Bentham’s Panopticon was a “new mode of

\textsuperscript{145} Spragens, \textit{The Irony of Liberal Reason}, 186.
obtaining power of mind over mind in a quantity hitherto without example.” It was a form of power based on a scientific understanding of human beings, capable of manipulating and transforming them. This kind of power changed the logic of government to that of governance.

Bentham gave the idea of surveillance a concrete, architectural form in his proposing of the Panopticon - a disciplinary tool based on the principle of transparency. He devised the Panopticon in 1786 while visiting his younger brother Samuel in Russia. Bentham was heavily influenced by a factory plan his brother had designed for Prince Potemkin. As Janet Semple writes:

It was in an attempt to employ ignorant Russian peasants effectively in manufacturing that Samuel devised a circular inspection house that would enable each workman to be supervised from a central observation post.

Bentham named his design Panopticon from two Greek words: “pan” which signified everything and “optikos” referring to sight.

Jeremy Bentham’s Original Illustration for the Panopticon Penitentiary.

148 Semple, Bentham's Prison, 99-100.
The Panopticon prison is designed in the form of a concentric building with the periphery divided into individual cells which are open to a central tower. “Inside the opaque circular building the jailer is clarity.”\textsuperscript{150} The Panopticon is intended to be a transparent space where every inmate is observable from the central point. Everything inside this space is visible, except the gaze of the guard, which is invisible. For the principle of surveillance to work the gaze needs to be obscured. The panoptic apparatus works on the inter-play between the visible and invisible. In Bentham’s words “the essence of it consists, then, in the \textit{centrality} of the inspector's situation, combined with the well-known and most effectual contrivances for \textit{seeing without being seen}.”\textsuperscript{151}

The central tower lodged the omniscient guard. Bentham proposed an asymmetric lighting system to ensure that each inmate would remain visible and identifiable to the “all-seeing” eye of the inspector at all times. However, the inmates would not be able to see the guard in the tower since “the inmate must never know whether he is being looked at any one moment; but he must be sure that he may always be so.”\textsuperscript{152} Bentham’s argument is that:

The more constantly the persons to be inspected are under the eyes of the persons who should inspect them, the more perfectly will the purpose of the establishment have been attained. Ideal perfection would require that each person should actually be in that predicament during every instant of time. This being impossible, the next thing to be wished for is, that, at every instant, seeing reason to believe as much, and not being able to satisfy himself to the contrary, he should conceive himself to be so.\textsuperscript{153}

\begin{footnotes}
\footnote{149}{From: \url{http://www.york.ac.uk/depts/poli/images/Bentham's%20Panopticon.jpg} (accessed on October, 03 2008).}
\footnote{150}{Miller and Miller, “Jeremy Bentham's Panoptic Devise,” 4.}
\end{footnotes}
"The genius of the Panopticon, then, was its concrete embodiment of the Cartesian subject-object relationship and the conversion of this epistemological situation into a political institution."\textsuperscript{154} The Guard embodies the Cartesian subject and the inmates who were constantly under the invisible eye of the guard were the Cartesian objects. It needs to be emphasized that in the Panopticon transparency is unidirectional, hence it is a hierarchical form of surveillance and the source of power itself is not transparent. Bentham was well aware that one-way transparency or "seeing without being seen" provides "the power to coerce without violence."\textsuperscript{155} If the observed subject cannot watch being surveiled then s/he has absolutely no control over the observer and is unable to gauge his/her weaknesses. The concept of unidirectional transparency therefore becomes fundamental to controlling the mind.\textsuperscript{156}

From the standpoint of utilitarianism, the panoptic device embodies the utilitarian ideal, or as Jacques Miller astutely observes: "the Panopticon is not just one theme among others in Bentham’s work: the utilitarian is basically a panoptician."\textsuperscript{157} Bentham was well aware that the "apparent omnipresence of the inspector combined with the extreme facility of his real presence"\textsuperscript{158} makes the Panopticon not just a powerful device, but an economical one too. Placing the guard in the center ensured that the Panopticon required only one guard to keep watch over a multitude of prisoners and it did not require the guard to move around as the circular design permits a clear view of all the cells.

\textsuperscript{154} Spragens, \textit{The Irony of Liberal Reason}, 120.
\textsuperscript{156} The full extent of panoptic power and its implications will be analyzed in the following chapter. As Foucault later points out the panoptic scheme allows for discipline, normalization and surveillance of the subject, all achieved by the simple principle of transparency. "Each individual will internalize this gaze "to the point that he is his own supervisor..exercising this surveillance over, and against, himself." The presumption of surveillance would make real surveillance unnecessary. Every person would be a prisoner of his own watchfulness.” Sarah Boxer, “Beating Surveillance: Don’t Care, Just Laugh”, \textit{The New York Times}, July 4, 1998.
\textsuperscript{157} Miller and Miller, "Jeremy Bentham's Panoptic Devise." 20.
RV Jackson writes:

From the standpoint of Bentham’s utilitarianism, punishment brought pain to the person undergoing it and could be justified only if it produced an even greater good, either in pleasure to others or in pain avoided by the community at large. One aim of punishment should be to repair the evil of the offence by compensating the victim.¹⁵⁹

The idea behind the Panopticon was of course to punish and rehabilitate prisoners. Bentham understood that the act of punishment would reduce individual happiness thereby reducing a bit of the general level of happiness. Yet, equally important was to prevent others from committing crimes and this would then increase the happiness of society as a whole.¹⁶⁰ Utility-wise the prevailing practice of shipping prisoners overseas to Botany Bay in New South Wales was of no advantage to the public; in fact it was an expensive proposition that used up taxpayers’ money.¹⁶¹ In Bentham’s estimation the Panopticon would benefit society as whole. The prisoners would benefit from humane treatment as there would be no jostling by the guards, no iron chains or physical torture. The Panopticon on the other hand would be cheaper than shipping prisoners. Bentham introduced the idea of a “prisoner-workman”¹⁶² and he sought to make prisoners “work at their own trade.” He did not see why “labor should be the less reforming for being profitable.”¹⁶³ It was clear that Bentham was writing in the period of early industrialization, and he hoped that the scheme of putting prisoners to work will be not just economical but profitable.¹⁶⁴ It would further lower the cost of their upkeep and could also possibly contribute towards financial compensation for the victim.

¹⁶³ Ibid.
¹⁶⁴ David Lyon explains that there was also a personal financial motive for Bentham. He hoped to gain from a stake in the Panopticon project and become its first manager of sorts. When Edmund Burke is shown the blueprint of the
Bentham worked on the Panopticon project for over two decades; however the prison was never built. Yet it is by far the most influential articulation of the power of the gaze. The common assumption is that the Panopticon is solely a prison; however “after applying the inspection principle first to prisons” Bentham envisioned using the same generic model for “mad-houses bringing it down to hospitals…..at last to schools.”

Jacques Alain Miller aptly says that “the Panopticon is not a prison… it is the universal optical machine of human groupings.” The Panopticon was to be a universal model based on which the government should operate. Its multiple applications enhanced its utility and helped to create a self-policing individual. It would transform behavior so as to intentionally establish a

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165 However, Bentham’s theories did influence political practice. Since Bentham’s writings were not easy to read his ideas were circulated through the few who read him (among them were James Mill, JS Mill) Also the political class at the time was a small one consisting of intellectuals, civil servants and politicians and his ideas permeated into the policies through his followers in this group as well. Joseph Hume, Sir Samuel Romilly and Thomas Southwood Smith, actively promoting reform in the fields of public health, law reform and factory legislation respectively, were all either personal friends of Bentham or his avowed disciples. Other measures that Bentham had advocated at one time or another that finally found their way onto the statute books include the setting up of a permanent police force; the official registration of births, marriages, and deaths; and separate ministries responsible for the provision of education, health and poor relief.” Axel Davis, “Jeremy Bentham: The Utilitarian Foundations of Collectivism,” Libertarian Heritage 15(1995): 5.

166 Bentham remained optimistic that his brilliant design would eventually be recognized by the British Government and that he would be made in charge of constructing a model penitentiary. The failure of the scheme to be adopted upset Bentham so much that in his old age he remarked: “I do not like to look among Panopticon papers. It is like opening a drawer where the devils are locked up—it is breaking into a haunted house.” Bentham, The Works of Jeremy Bentham. Vol 10, Chapter X, p 250. From: http://oll.libertyfund.org/title/2085 (accessed on October 12, 2008). However “the buildings decisively influenced by Bentham’s plans include all sorts of public buildings, such as schools, reformatories and prisons. Among those are Robert Adamson’s Edinburgh Bridgewelly (1794), the Female Prison at Lancaster Castle (1821), some of the smaller Irish country gaols, and a few department prisons in France (1840 and 1870). The Pauper Lunatic Asylum near York, built by Watson & Pritchett, was an early attempt to apply the panoptic concept to lunatic asylums as well. The designs of the English National Penitentiary in Millbank, built by William Williams (1812) and the model prison in Prisonville (1838-40) show variations to Bentham’s model. The Dutch prison Arnhem Koepel, built according to the panoptic principle in 1897, embodies this principle in its purest form: a single, all-seeing eye in the middle of those under surveillance. Examples from the 20th century include The Dutch Prison in Breda (1902); Statesville Prison in Joliet, USA (1926-35) and the penal colony on the island Pinos near Cuba (1932).” Levin, Frohne, and Weibel, eds., Ctrl [Space]: Rhetorics of Surveillance from Bentham to Big Brother. Of the Power of the Gaze” by Katrin Kaschadt.

commonality of interest between the governors and governed. Bentham makes this point in two central passages:

To say all in one word, it will be found applicable, I think, without exception, to all establishments whatsoever, in which ...a number of persons are meant to be kept under inspection....No matter how different, or even opposite the purpose.\footnote{Ibid. Vol 4, Letter I: Idea of the Inspection Principle. From: http://oll.libertyfund.org/title/1925/116374/2367744 (accessed on October 05, 2008).}

Morals reformed - health preserved - industry invigorated instruction diffused - public burthens lightened - Economy seated, as it were, upon a rock - the gordian knot of the Poor-Laws are not cut, but untied - all by a simple idea in Architecture!\footnote{Ibid. Vol 4, Preface. From: http://oll.libertyfund.org/title/1925/116373/2367733 (accessed on October 05, 2008).}

The common theme in all versions of the Panopticon is that they are based on what Bentham terms the “transparent-management”\footnote{Ibid. Chapter: Section II: Management-In What Hands, And On What Terms. From: http://oll.libertyfund.org/title/1925/116469/2368552 (accessed on October, 05 2008).} principle. When Bentham’s Panopticon penitentiary proposal was rejected he began working on a similar design to house the poor. There was a need for reform of the poor laws as a result of growing rural poverty in Britain due to poor harvests and the economic dislocations produced by industrialization. The Pauper Panopticon was conceived by Bentham as an answer to this problem. The scheme aimed to feed and house the poor by putting the able-bodied among them to work. The profits derived from their labor would be used to cover the costs. However, in true utilitarian spirit the Pauper Panopticon served other purposes as well.

Poverty for Bentham was a social problem and it was the state’s duty to alleviate this problem. But in order to tackle the problem the state needed adequate information on the group it had to help. This information was provided by the surveillance carried out via the Panopticon scheme.
All the poor... the deaf, the outcasts, brothel-keepers, and asthmatics, bastards and their mothers, husbandmen and gardeners out of work in time of long-continued frost, domestic servants fired by a wicked master, the infirm of mind, those with only one arm—short, an entire vast, colorful population, made wonderfully homogenous by an implacable taxonomy. A form is to be sent to every parish so that the number of poor in each category can be precisely noted down, along with age, sex, state of health etc.171

By accounting for and placing all the above “deviant” populations under one roof, the two basic functions of the Panopticon, discipline and surveillance, could easily be carried out. The Pauper Panopticon, just like the Panopticon penitentiary, was designed in such a way that the behavior of each person was transparent to the management of the institution. Knowing that s/he is being monitored and not knowing the particular instant at which s/he is being observed, the inmate monitors himself/herself and conforms to the disciplinary regimen designed for him/her.

The politics of information and the technology for acquiring information is an integral part of statecraft in modernity, and Bentham substantially contributed to this idea. Bentham’s blueprint of a state in the Constitutional Code has a permanent system of collecting and analyzing statistical data of the population. This practice is also known as profiling today.172 I argue in later chapters that we have increasingly become a panoptic society and collecting data by watching people in various ways at various moments as they go about their daily lives, is a prevalent feature of life today. Transparency in terms of subjecting the population to the peering

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172 The present day technique of profiling consists of four basic steps, namely, data collection, data preparation, data mining and interpretation. Data collection requires that the subject’s behavior such as daily activities, transactions places visited etc are observed, recorded and stored. Data preparation involves aggregating and integrating the different databases. Data mining involves generating correlations using computer algorithms. The final step, interpretation, requires human intervention as data alone does not have independent explanatory power; it involves spotting the outliers and confirming actual correlations.

Bentham, in his time, had already developed a taste for this kind of technique, albeit a less sophisticated version. “Books must be kept, Bentham stresses, in every panoptic establishment. “Book-keeping” is a science—the practice of which.. is facilitated by the omnipresence of surveillance in, and the concomitant transparency of, the area to be accounted for...Every event will immediately be recorded and broken down into its constituent parts, each of which will then be noted in the corresponding book—once life is totally reflected in the mirror of exhaustive inscription, the government will be in a better position to take informed and scientific decisions.” Ibid.: 19.
gaze of the state and/or of each other is the primary step in collecting information, which is interpreted as knowledge that then translates into power in the hands of the surveiler. Thus transparency breeds compliance and any departure from the “norm” can be noted.

**The Autonomy-Utility Dialectic**

Thus from a utilitarian standpoint transparency is understood as a means to promote the greatest happiness for the greatest number; however transparency understood as a panoptic gaze also imposes conformity and curbs autonomy.

It is not of much moral significance to utilitarians whether or not an action increases the autonomy of an agent. Some utilitarians would argue that since autonomy and living as an autonomous agent increases happiness they are to be favored, but, not for their own sake. At best, autonomy is valued because it makes people happier. Hence, there is no guarantee of autonomy under utilitarianism. This is a problem, however, as autonomy is essential for freedom in a political setting.

The insistence on the possibility, even the necessity, of intellectual autonomy and self-reliance was an omnipresent theme from Descartes solitary *cogito* to Kant’s injunction to throw off self-incurred tutelage. The capabilities of unfettered natural light of the mind suggested the importance of intellectual freedom and independence for intellectual progress. Autonomy, however, is clearly a political situation as well as an epistemological precondition. The one could not be wholly abstracted from the other. An important implication of the new epistemology, then, was that men must be free to follow the natural light of their intellectual faculties. The epistemological theme of autonomy, in other words, quite naturally spilled over into the political theme of *liberte*. The connection might be a relatively logical one: minds inhabit bodies; knowing is an act; therefore, political freedom must to some extent accompany intellectual liberation.\(^{173}\)

Some of the main tenets of liberalism include a commitment to individual freedom, the moral and social primacy of the individual, the constitutional protection of civil liberties and

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\(^{173}\) Spragens, *The Irony of Liberal Reason*, 81.
rights, the moral, legal, and political equality of citizens and the separation of private and public spheres. Autonomy is naturally linked to liberalism and liberal ideas such as rights, which utilitarianism ignores. Bentham admitted that his goal was to make the subjects of his proposals happy: “their freedom was not a concern.” He says: “call them soldiers, call them monks, call them machines, so they were but happy ones, I should not care.”

It has been shown that Bentham’s theories of publicity and the Panopticon are based on the principle of transparency, where transparency is both a utilitarian and a technocratic concept. I argue that this version of transparency would lead to an erosion of autonomy. Autonomy gives an individual freedom to think independently and the right to choose regarding such matters as political affiliation, sexuality, behavior, and appearance without interference from the state and society. Of course, this is subject to the rights of others and the law. It requires a certain amount of privacy; this is denied when there is total visibility or transparency.

One of the foremost features of totalitarian regimes, such as the ones established under Stalinist and Nazi rule, was the idea of a transparent State, in which there was no escape from the peering eyes of the administration. These regimes did not emerge in a vacuum; they need to be understood in the context of the history of ideas in modern times. The principles of Bentham’s Panopticon are the same ideas from which this impulse arose. The prevalence of totalitarian regimes today may have diminished; however, the growth of ocular surveillance technologies...
within liberal-democratic regimes today creates, oddly, a similar kind of space.\textsuperscript{176} The phenomenon of “seeing and being seen” is still very much a part of modern governance. The idea of transparency or omniscient visibility remains a popular feature of urban planning and military intelligence, for example. The panoptic principle of “seeing without being seen” is encountered on a daily basis in the form of CCTV cameras placed around most cities.

Bentham’s original idea has come to be a symbol of the Enlightenment’s privileging of vision in search of social order and social change. The diagram of the Panopticon is a symbol of a specific kind of power, which Foucault identifies as “power though transparency.”\textsuperscript{177} Any discussion of surveillance today inevitably invokes the Panopticon, even though numerous other technologies have emerged that facilitate the “watching of the few by the many and watching of the many by the few.”\textsuperscript{178} Panopticism has become a ubiquitous metaphor for the way surveillance functions within societies.

\textit{Conclusion}

Publicity is Bentham’s answer to the long standing political question: \textit{quis custodiet ipsos custodies?} The question “who will guard the guardians?” was first posed to Socrates who believed that the “noble lie” would protect the guardians from their appetites and help them govern the rest of society in a just manner. In this way the guardians would guard themselves. “Noble lies” were no longer acceptable in Bentham’s time, and the premium was on truth-telling. Bentham’s answer is almost diametrically opposed to that of Plato. The public, Bentham maintains, will keep a check on those in power. But to do so it needs transparency in

\textsuperscript{176} Of course, there are big differences between totalitarian regimes and liberal-democratic ones and I do not wish to conflate the two. The difference precisely is that liberal regimes provide for other kinds of “space” as well—space that allows for resistance for instance.


government, for “without publicity, no good is permanent; under the auspices of publicity, no evil can continue.”

Bentham argues for increased visibility to the point of transparency. Public scrutiny in the form of direct observation by the public is not confined to the Panopticon; it extends to the Parliament’s activities, and can be applied to all public institutions. Bentham writes:

I take for granted as a matter of course, that ....the doors of all public establishments ought to be, thrown wide open to the body of the curious at large-the great open committee of the tribunal of the world.

In the case of the prison, public access serves as an instructive lesson in morality and it deters the public from committing crimes. Also it helps to keep an eye on the guard, who in turn is watched by the visitors, or the “public eye”; the added layer of surveillance tightens control over the inmates. Thus the seemingly parallel and divergent ideas of publicity and surveillance in Bentham are shown to converge under the rubric of transparency.

Bentham’s answer also raises a whole new set of questions:

The political problem might be called the “we, who?” problem, and it is endemic to technocracy. Who is this “man” who is “nothing more than the product of his education?” And who, then, is the producer? Who are the “they” whose hands will hold “the instrument of their greatness and felicity?” Who are the “we” who “may learn how to cherish and improve” some passions and affections while “checking and rooting out” others? Who, in short, are the educators and who the educated? Who are the knowers and who are the known? Who controls and who is controlled?”

Transparency inevitably presupposes a subject and object: who is transparent to whom? The asymmetry in visibility generates an asymmetry in power. Even if transparency were

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reciprocal, i.e., the observer and observed being visible to each other, the information gleaned needs to be parsed and processed by someone and “it is precisely the terms of interpretation that are contested.”

As Spragens points out, the neutrality and objectivity associated with what he calls “the language of technocracy” only refers to the process of governance and not its purpose. Instead under technocracy there is a greater emphasis and a closer link is forged between knowledge and power.

Foucault meticulously dissects the relationship between transparency, knowledge and power, and that is what I discuss in the following chapter.

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183 Thomas Spragens argues that “The old adage about ‘the truth making you free’, it could be said, attains truly metaphysical significance under the aegis of technocracy, for the conceptions of both “truth” and “freedom” are radicalized and given extreme force. By attaining scientific truth, one may buy one’s freedom from the grasp of a deterministic nature that swallows up the unenlightened.” Spragens, *The Irony of Liberal Reason*, 105.


185 Spragens, *The Irony of Liberal Reason*, 117.
III. Foucault and Habermas on Transparency in Post-Modern Times

The ‘Enlightenment’ which discovered the liberties, also invented the disciplines. The real, corporal disciplines constituted the foundation of the formal, juridical liberties. The contract may have been regarded as the ideal foundation of law and political power; panopticism constituted the technique, universally widespread, of coercion.

-Michel Foucault

Should we try to hold on to the intentions of the Enlightenment, feeble as they may be, or should we declare the entire project of modernity a lost cause?

-Jurgen Habermas

Introduction

In this chapter I engage Foucault and Habermas in an attempt to study the evolution and characteristics of the concept of transparency in recent times. Both these theorists are aware of the shortcomings of modernity and their contrasting positions on the Enlightenment are well known. Habermas is sympathetic towards the Enlightenment project and treats modernity as an “unfinished project” which has emancipatory potential. Foucault, on the other hand, is preoccupied by the subtle yet insidious power structures we inherit from this period and exposes them for what they are. They both treat transparency as an influential Enlightenment metaphor that has shaped current political practice; however for Foucault it is part of a dangerous dystopia, while Habermas utilizes the idea for his emancipatory project.

Foucault states that “a fear haunted the latter half of the eighteenth century: the fear of darkened spaces, of the pall of gloom which prevents the full visibility of things, men and truths.” The consequence was that people came to be preoccupied with the idea of transforming space and its inhabitants into an observable, homogenous entity which could be

quantified and controlled. Foucault’s contention is that “visibility is a trap.”

His concern like that of Nietzsche before him is that we are moving towards a world of “tremendous clockwork, composed of ever smaller, ever more subtly adapted gears.” Foucault alerts us to the fact that the Enlightenment project of transparency is a mechanism furthering social control, leading to a progressive erosion of human freedom. He attributes the emergence of transparency as a significant political ideal to Rousseau’s “dream of a transparent society;” he claims that subsequently this dream was picked up by the French Revolutionaries as a solution to “the problem of justice,” which “for the Revolution, was not so much to punish wrongdoers as to prevent even the possibility of wrongdoing, by immersing people in a field of total visibility.”

I focus on Foucault’s writings on the oppressive aspects of “total visibility.” In his works *Madness and Civilization* and *The Birth of the Clinic* he introduces us to “the majestic violence of light” and in doing so exposes the relationship between knowledge and power. He demonstrates that knowledge provides the grounds for power and social control, and that knowledge, in turn, is attained by creating a transparent society. I examine this equation at length using the above works, and in the process I attempt to decipher the methods he uses to scrutinize the history of visual practices through *The Order of Things*. Having established the theoretical backdrop, my main focus in this chapter is on what Foucault calls “power through transparency.” In particular, I explore his treatment of Bentham’s Panopticon in *Discipline and Punish*.

The Panopticon becomes interesting and takes on a potent meaning when mediated through Foucault’s “panopticism”- a general paradigm for the functioning of modern power.

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192 Ibid., 154.
Through a textual analysis of *Discipline and Punish* I examine the Foucaultian interpretation of the potentially dire implications of the Enlightenment logic of transparency mediated through Bentham’s brainchild- the Panopticon. I identify the two levels at which the Panopticon operates and distinguish between them: panoptic technology makes the space we inhabit transparent, and it also renders transparent the selves who inhabit this space. I emphasize the difference between a technology of spatial transparency and the technique of the penetrating gaze that lodges itself in the body, i.e., “discipline.” The two work in concert to produce a diaphanous society.

Foucault avoids Enlightenment Cartesianism by refusing to treat the act of seeing as a transparent process whereby visual stimuli are transformed into knowledge. For Foucault sight, or what can be seen, is a combination of discourses, knowledge and spaces, i.e., it mirrors the social and political context. He disagrees with Guy Debord’s claim that we are a society of spectacle and asserts that “we are neither in the amphitheater nor on the stage, but in the panoptic machine”193 because seeing and being seen is far from an innocent process. It is implicated in technologies which in turn classify and declassify what is visible. Assuming this to be the case, in the remainder of this section I will use Foucault’s ideas to explore the proposition that the technology of transparency is problematic, and that it is all the more so because it is not transparent itself.

The selection of Foucault and Habermas for this discussion is deliberate, as they invoke Bentham’s theories of panopticism and publicity respectively, which together constitute the epistemological basis of the metaphor of transparency. It is important to acknowledge that these two thinkers are ultimately pursuing very different projects. In my view, Foucault seems mainly concerned with dissecting the actual character of modern life, whereas Habermas is primarily interested in making sense of the ideals that are implicit in democratic practice. The two

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approach transparency from very different directions, Foucault criticizing the idea while Habermas weaves a normative theory around it. My justification for bringing them together is that they both have significant things to say about the theme of transparency.

Publicity for Habermas is an extension of the Kantian ideal, and it means the transformation of opinion into public opinion through rational-critical discussion. In The Structural Transformation of the Public Sphere, he credits Bentham with the initial identification of the space called the “public sphere.” According to Habermas, Bentham was the first to make “the connection between public opinion and the principle of publicity.”

Habermas concerns himself only with Bentham’s optimism, i.e., the Bentham who hoped that “a habit of reasoning and discussion will penetrate all classes of society.”

I examine Habermas’ theory of publicity and its relation to the public sphere (and draw the link between publicity and democracy). Through dialogue and assembly the public sphere creates a space where opinions are generated to challenge, affirm and thereby guide state affairs. This, according to Habermas, is required for the legitimate functioning of any democracy. For the full potential of the public sphere to be realized communication needs to be free from domination (i.e., access needs to be universal, without hierarchy and the state should not intervene).

I point out that publicity for Habermas is coupled with an aspiration for transparency. He writes that “subjectivity originates in the interiority of the conjugal family” and “by communicating with itself,” the subject “attains clarity about itself.” This reflexive subject is the ideal candidate to enter into the public sphere and where s/he can engage in public discourse.

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194 Habermas, The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society, 99.
195 Ibid., 51.
I then discuss the role of transparency in Habermas’ theories of discourse and communicative action. Transparency is one the fundamental premises of his communication theory. Habermas’ idea of a discursive democracy is built on the assumption that it is possible to achieve undistorted communication through transparency, which eventually leads to a rational consensus.\footnote{Jurgen Habermas, \textit{The Theory of Communicative Action}, trans. Thomas McCarthy, vol. 1 (Boston: Beacon Press, 1984), 94-95.}

My critique of transparency is that it is based on the idea of technocratic reason. In an attempt to move away from instrumental reason Habermas shifts reason into a communicative realm,\footnote{Reason for Habermas is not quite so much an inherent mental capacity and tool for reflection as it is for Kant, instead reason is the product of public discourse through which norms and values are negotiated. Thomas McCarthy notes that Kant explores moral questions through a process of individual reflection where as Habermas shifts the locus of reason from the individual realm to the public realm of interpersonal dialogue. Following from this, the idea of universalization in Kant involves a process of reflection and hypothetical conversation with one’s own consciousness, where as for Habermas universalization involves norms being legitimated in the public sphere.} fully understanding that instrumental reason traps people in a system, leaving the public with little or no autonomy. In contrast, his normative theory (the principle of publicity and theory of communicative action) relies on dialogue: the public get to discuss and make decisions rather than allowing the system to organize their political and social life. For Habermas autonomy depends on whether the public position on an issue comes out of “a process of being informed or in fact only a more or less concealed game of power.”\footnote{Jurgen Habermas, \textit{Between Facts and Norms}, trans. William Rehg (Cambridge, Mass: MIT Press, 1996), 375.} I believe that this is in principle a helpful distinction but that in practice the process of being informed today is heavily dependent on technology, which does not allow for the kind of transparency Habermas has in mind.

Some commentators, such as David Levin, argue that Habermas undermines the modern hegemony of visual politics by shifting to a paradigm of politics based on speech. I acknowledge this oral bias; however I contend that for Habermas speech itself is constituted in visual terms which means that he subscribes to the problematic language of transparency.
Foucault understands the idea of transparency as “the project of a universal visibility which exists to serve a rigorous, meticulous power.” From his writings, Foucault’s definition of transparency in more precise terms can be gleaned as: “visibility organized entirely around a dominating, overseeing gaze.” By tracing the genealogy of this dominating gaze he unveils the dark side of the Enlightenment.

Placing people in an area of “total visibility” in order to control them was a recurrent concern during the French Revolution. Foucault singles out Rousseau as the source of “the dream of a transparency society” and the inspiration behind the Revolution’s zeal “to break up the patches of darkness that blocked the light, eliminate the shadowy areas of society, demolish the unlit chambers where arbitrary political acts, monarchical caprice, religious superstitions, tyrannical and priestly plots, epidemics and the illusions of ignorance were fomented.”

Foucault views Bentham’s Panopticon project as the implementation of Rousseau’s dream. He makes the connection this way:

Bentham’s obsession, the technical idea of the exercise of an “all seeing” power, is grafted onto the great Rousseauist theme which is in some sense the lyrical note of the Revolution. The two things combine into a working whole, Rousseau’s lyricism and Bentham’s obsession.

Bentham and the Panopticon are of symbolic value and serve as a “genealogical marker” for Foucault. He points out that Bentham’s thought was not unique because of the “importance it gives to the gaze, but it is very modern in the general importance it assigns to techniques of

200 Ibid.
201 Ibid., 153.
202 Ibid.
power.”

To be clear, Foucault does not think that “scopic regimes” or ocularcentrism originated in modernity; however he does believe that there is a certain distinctiveness about the use of vision during this period. David Levin captures the Foucaultian perspective by noting that “only in modernity does ocularcentrism of our culture appear as panopticism: the system of administrative institutions and disciplinary practices organized by the conjunction of a universalized but instrumental rationality and advanced technologies of visibility.” Modernity is thus uniquely associated with the “hegemony of vision” where vision when “it is allied with all the forces of our advanced technologies” makes possible “the power to control.” It is in modernity that “vision has become supervision.”

On the one hand the Enlightenment was about the light of reason bringing about liberation and emancipation of the subject; however Foucault warns us of the “majestic violence of light.” It is not just darkness per se but “it’s also the areas of darkness in man that the century of Enlightenment wants to make disappear.”

In French, the word sight etymologically stands not just for vision (voir) but also for knowledge (savoir) and power (pouvoir). Foucault understands transparency primarily in epistemic terms in conjunction with the power/knowledge duo. He systematically unravels the link between vision, knowledge and power in the works leading up to his most extensive analysis of this triad in *Discipline and Punish*.

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203 Ibid., 160.
205 Modernity for Foucault mainly refers to a particular set of ideological practices. At times though, he does refer to modernity as a particular historical time period, situating it just prior to and after the French revolution.
Foucault claims that asylums, hospitals and penitentiaries were a part of the new wave of ocularcentric, political technologies that were developed in the late eighteenth /early nineteenth centuries. These technologies were more than “simply a way of draping political discourse in scientific clothing”\textsuperscript{211}; they gathered the knowledge required to control the population. It was a paradigm shift from the previous mode of politics. The mad were shifted from dungeons into asylums, hospitals were set up to provide standardized treatment for the sick, and prisoners were moved into penitentiaries as opposed to being tortured. These institutions were designed to control individuals and enable constant surveillance of them. The judging of normality\textsuperscript{212} “became an essential part of the shaping of the individual to the requirements of institutional power in the nineteenth century, and it was through these disciplines that the subject in a sense became visible.”\textsuperscript{213} In this way “power through transparency” was used to govern individuals.

In \textit{Madness and Civilization} Foucault explains the ocularcentric bias in the development of psy-sciences (psychology, psychiatry etc). He notes that “the science of mental disease, as it would develop in the asylum, would always be only of the order of observation and classification. It would not be a dialogue.”\textsuperscript{214} The absence of dialogue reveals the objectifying quality of the gaze.\textsuperscript{215} David Levin further draws out this distinction between dialogue

\textsuperscript{211} Foucault, \textit{Discipline and Punish: The Birth of the Prison}, 229.
\textsuperscript{212} A norm can pertain to behavior, appearance, belief etc. It is something that is “socially worthy, statistically average, scientifically healthy and personally desirable.” Nikolas Rose, \textit{Inventing Our Selves} (Cambridge: Cambridge University Press, 1996), 76. Foucault argues that most often norms are in keeping with and promote political agendas. The guardian and enforcer of the norm is the expert. He identifies several such experts such as the doctor, psychiatrist, gaoler, statistician etc. He also notes that these “judges of normality are present everywhere. We are in the society of the teacher-judge, the doctor-judge, the educator-judge, the ‘social worker’-judge.” Foucault, \textit{Discipline and Punish: The Birth of the Prison}, 304.
\textsuperscript{215} The gaze, as Foucault refers to it, is the penetrating vision that is intended to gather knowledge about an individual or group of individuals in a political or private space. It is the gaze that renders the subject transparent.
(communication) and the gaze (observation) in these terms: “dialogue requires proximity and participation; the gaze can be distant and detached.”

Foucault delves deeper and more extensively into aspects of the gaze in his work on *The Birth of the Clinic*. He was interested in the changes that took place in medical institutions in the latter half of the eighteenth century. It was during this time that the gaze had become entrenched in all aspects of medicine (the medical gaze or *le medical regard* as Foucault calls it) from the “clinician’s gaze” to hospital architecture. Foucault attributes the structure of modern medicine to ideas that permeated the French Revolution:

The medical field, restored to its pristine truth, pervaded wholly by the gaze, without obstacle and without alteration, is strangely similar, in its implicit geometry, to the social space dreamt by the Revolution.

He is critical of this culture of an all pervasive vision that informs modern medical practice:

But to look in order to know, to show in order to teach, is not this a tacit form of violence, all the more abusive for its silence, upon a sick body that demands to be comforted, not displayed? Can pain be a spectacle?

Here Foucault is stressing on the lack of compassion implicit in this technical approach toward human beings. He admits that clinical observation has succeeded in setting up a “rational, well founded body of medical knowledge.” However, the vision that Foucault opposes is the penetrating gaze of instrumental reason, the “absolute eye that cadaverizes life.”

Foucault takes a step back from documenting micro-practices and analyzes the broad trend in visual practices in the *Order of Things*. He identifies a shift in the paradigm of vision

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219 Ibid., 84.
220 Ibid., 9.
221 Ibid., 166.
and documents the emergence of a “new field of visibility”\textsuperscript{222} in the late eighteenth century. This period is marked by interest in the idea of representation. Kant’s Copernican revolution radically altered the way in which both objects and people were viewed.\textsuperscript{223} Foucault notes this as a significant point of departure from the classical era where there was a certain kind of transparency to knowledge—“a form of immediate knowing, a perceptible knowledge.”\textsuperscript{224} After Kant the idea of transparency gets more complicated and “vision… becomes itself an object of knowledge, of observation.”\textsuperscript{225} This led to the development of a “science of vision” in the nineteenth century, where vision was applied to the human sciences (as documented in his earlier works). Foucault implies that historically the human sciences have arisen in conjunction with ocular technologies. At times Foucault even suggests that the human sciences are necessarily entrenched in visual practices that consist of control, manipulation and objectification of the subject. Foucault firmly believes that vision, knowledge and power are intertwined. Transparency in the form of surveillance facilitates the formation of knowledge which leads to an increase of power and thus they “reinforce one another in a circular process.”\textsuperscript{226} An increase in transparency (via access to and control over technologies of surveillance) is gained through power, which in turn makes possible the discovery of new objects of knowledge over which power can be exercised.

In \textit{Discipline and Punish} Foucault establishes a link between the rise of the human sciences and the emergence of the modern prison as a carceral network. He clarifies:

I am not saying that the human sciences emerged from the prison. But if they have been able to be formed and to produce so many profound changes in episteme, it

\textsuperscript{223} See Chapter I for a discussion on Kant and idea of representation.
\textsuperscript{224} Crary, \textit{Techniques of the Observer: On Vision and Modernity in the Nineteenth Century}, 70.
\textsuperscript{225} Ibid.
\textsuperscript{226} Foucault, \textit{Discipline and Punish: The Birth of the Prison}, 224.
is because they have been conveyed by a specific and new modality of power: a certain policy of the body, a certain way of rendering the group of men docile and useful. This policy required the involvement of definite relations of knowledge in relations of power; it called for a technique of overlapping subjection and objectification; it brought with it new procedures of individuation. The carceral network constituted one of the armatures of this power-knowledge that has made the human sciences possible. Knowable men (soul, individuality, consciousness, conduct, whatever it is called) is the object-effect of this analytic investment, of this domination-observation.227

From Foucault’s perspective Bentham’s Panopticon is an apparatus that facilitates “domination-observation”, and “if Bentham's project aroused interest, this was because it provided a formula applicable to many domains, the formula of 'power through transparency', subjection by 'illumination'."228

In the Panopticon, “power through transparency” operates at two levels: one as a technology of spatial transparency and the other a technique of the penetrating gaze that lodges itself in the body to “discipline” the subject. In the former the focus is on the technology of panoptic power, and it entails information collection and data management. In the latter, the effect of the gaze (on the inmate) is the locus of concern, and it involves discipline, normalization and soul-craft.

Foucault justifies his analysis of the architectural principles of the Panopticon by contending that that “space is fundamental in any exercise of power.”229 In his studies on asylums, hospitals and prisons, Foucault argues that space is political. In Discipline and Punish Foucault focuses on a specific type of space, namely, transparent space as theorized by Bentham in his model of the Panopticon. It was believed that by making space transparent all irrationality along with darkness, superstition, myth, fear and phobia could be wiped out in one fell sweep. The public spaces that Bentham writes about and Foucault analyzes, in the form of hospitals,

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227 Ibid., 305.
229 Foucault, Discipline and Punish: The Birth of the Prison, 252.
poorhouses, schools, asylums and prisons, “are spaces of constructed visibility.” These spaces determine both how we are seen and how we see ourselves, so they affect our freedom profoundly. In this way architecture serves to visualize power.

It is worth recalling Foucault’s chilling description of the Panopticon. The resonating aspect of this piece is the notion that a building is capable of enabling total visibility and complete control.

At the periphery, an annular building; at the centre, a tower; this tower is pierced with wide windows that open onto the inner side of the ring; the peripheric building is divided into cells, each of which extends the whole width of the building; they have two windows, one on the inside, corresponding to the windows of the tower; the other, on the outside, allows the light to cross the cell from one end to the other. All that is needed, then, is to place a supervisor in a central tower and to shut up in each cell a madman, a patient, a condemned man, a worker or a schoolboy. By the effect of backlighting, one can observe from the tower, standing out precisely against the light the small captive shadows in the cells of the periphery. They are like so many cages, so many small theaters, in which each actor is alone, perfectly individualized and constantly visible.

Foucault distinguishes several features of the spatial arrangement of the Panopticon which operate on the principle of transparency. Panoptic power is embedded: as the guardian in the tower can potentially observe every move of the prisoners in their translucent cells. It is asymmetric: while the inmate is watched by the guard, he is unable to see the guard. This kind of power is visible and unverifiable: the inmate cannot observe the inspector and would never know if he was being watched at any particular point of time. The Panopticon hides the guard, thereby masking his behavior, ethics and intentions. It is efficient and not labor intensive: in practice, a guard need not be watching the inmates at all times. The uncertainty of the exact moment they are being watched obliges compliance and subordination at all times from prisoners. It is automatic: the purpose of the Panoptic of machine is to automate the functioning of power and

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231 Foucault, Discipline and Punish: The Birth of the Prison, 200.
create a particular state of mind through such relentless visibility. Foucault describes it this way: “So to arrange things that the surveillance is permanent in its effects, even if it is discontinuous in its action; that the perfection of power should tend to render its actual exercise unnecessary; that this architectural apparatus should be a machine for creating and sustaining a power relation independent of the person who exercises it; in short, that the inmates should be caught up in a situation in which they are themselves the bearers.”

It is also predictive: the Panopticon is both a vision machine and a sorting machine. It orders, sorts and arranges individuals in the way they can be seen and understood. The prisoners are arranged in a hierarchical fashion, so as to allow the inspector to gauge at a glance each inmate’s potential for negative behavior. By physically sorting prisoners on the basis of their conduct, the Panopticon becomes a predictive model, “an epistemological machine” that assesses and categorizes individuals. Its power lies in the collecting of knowledge and information about persons in the form of a panoptically organized file. It is normalizing: the transparency of the Panopticon allows the surveiller to directly witness compliance. Suspicion is aroused wherever there is behavior against the “norm.” It depersonalizes power and is bureaucratic: Foucault explains how the creation of modern discipline leads to the “disindividuation” of power. It creates the perception that power resides in the machine itself rather than its operator.

Foucault’s concept of the unidirectional gaze is marked by an asymmetry in the power dynamic between the viewer (Subject/Guard) and the viewed (Object/Prisoner). He proclaims:

There is no need for arms, physical violence, material constraints. Just a gaze. An inspecting gaze, a gaze which each individual under its weight will end by interiorizing to the point that he is his own overseer, each individual thus exercising this surveillance over, and against, himself. A superb formula: power

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232 Ibid., 201.
233 Ibid., 202. Foucault writes:“Power has its principles not so much in a person as in concentrated distribution of bodies, surfaces, lights, gazes; in an arrangement whose internal mechanisms produce the relation in which individuals are caught up.”
exercised continuously and for what turns out to be a minimal cost. When Bentham realizes what he has discovered, he calls it the Columbus’s egg of political thought, a formula exactly the opposite of monarchical power.234

Foucault notes the decline of the classical mode of punishment in favor of a more complicated but still visually determined alternative in the nineteenth century. The Panopticon was dubbed the “Christopher Columbus’s egg of political thought” as it was a discovery that replaced monarchical power with a new kind of power. Foucault’s locus of concern in Discipline and Punish is the transformation (during the mid eighteenth to early nineteenth century) of punishment in the form of a public display (“a culture of spectacle”) to the more recent forms of punishment, which involve the emergence of the prison, giving rise to what he identifies as a “carceral culture.”235 Foucault calls this new avatar of punishment “discipline.”

Disciplinary power, exercised through the gaze, is a departure from the external, heavy use of force to a lighter form of control. Since the panoptic gaze is non-violent, it seems more humane as compared to the monarchical display of punishment. However, it can be argued that a violation of human rights takes place under both systems. Foucault contends that punishment in the form of the gaze is more damaging than physical torture, as surveillance denies subjectivity by controlling the mind.

The King made punishment violent and “spectacular so as to frighten others”; hence traditional sovereign power itself was transparent. Disciplinary power on the other hand “is exercised through its invisibility while imposing compulsory visibility on its subjects.”236 While the inmates are fully visible, the Guard in the central tower is invisible to the inmates. This asymmetry in seeing and being seen is fundamental to the Panopticon’s ability to discipline the

\[234\] Ibid., 155.
\[235\] A carceral culture for Foucault is one which resembles a modern prison. It seeks to know everything about its residents but hides everything about itself. It demands transparency on all fronts except in its own operations.
\[236\] Foucault, Discipline and Punish: The Birth of the Prison, 187.
inmate. The uncertainty of not knowing “whether he is being looked at any one moment” causes anxiety in the subject to the point of self-surveillance. The physical prison thus gets transformed into a mental one. Once the inmate exercises “surveillance over and against himself,” the guard plays a secondary role. In this way disciplinary power produces “docile bodies” which are molded, manipulated, trained and made to obey.

Physical torture does not take away the willingness to commit a crime again, as it does not directly manipulate one’s mind, as where surveillance strips the person of his power to will and the ability to act upon it. In the Panoptic model punishment is directed at the soul rather than body. A visible manifestation of surveillance is no longer required, and it is replaced by invisible ones in the form of the normalizing gaze of discipline. Thus, there has been a shift in the nature of transparency from a relatively obvious application of power to a more sophisticated, discrete and penetrative form.

Foucault reminds us that “the Panopticon must not be understood as a dream building: it is the diagram of a mechanism of power reduced to its ideal form...it is in fact a figure of

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238 This was also the obsession of the French Revolution of “preventing people from wrong-doing” by “taking away their wish to commit wrong.” The gaze thus makes people “unable and unwilling” to do wrong; unable, due to the physical constraints of being imprisoned, but unwilling due to the mental imprisonment or the interiorization of the gaze. Ibid., 154.
239 The idea of transparency as it relates to the “surveillance of the soul” originated in Christianity and has been “crucial in the development of the modern western self.” The Catholic idea of confession entailed transparency of the self where the “obligation was to render oneself truthfully into discourse, and a power relation in which the confession was to be made under the authority of another who hears it, evaluates it, judges the soul, and prescribes the form of conduct appropriate.” Nikolas S. Rose, *Governing the Soul: The Shaping of the Private Self* (London ; New York: Free Association Books, 1999), 220. However this particular technique of the soul was “replaced by the Protestant notion of disciplined character” where the intermediary is removed, every human being is ruled by his /her own conscience and is therefore constantly subjecting one’s thoughts and actions to self-scrutiny. Thus the individual himself/herself carries out God’s will by the judging and redeeming his/her own transgressions. “The new forms of self-regulation were manifested in a range of new technologies of the self in which self-inspection comes to replace the confessional.”Rose, *Governing the Soul: The Shaping of the Private Self*, 220. Confessional writing was one such technique of reflexive transparency employed by thinkers such as Rousseau (as noted in Chapter 2).
240 The aim of disciplinary power is to achieve normalization by purging deviations from the norm, thereby safeguarding the norm. Foucault’s view is that the category of the “normal” poses as an objective yardstick to assess an individual’s behavior, in reality it simply reflects the dominant cultures perception of what is “normal.” The idea of transparency is related to the norm, as it is through the gaze that the subject’s degree of deviance from the norm is determined.
Thus Bentham’s Panopticon was simply a prototype for a more generic form of disciplinary power, “panopticism,” which according to Foucault became a model for the general functioning of society. Foucault differentiates between two forms of discipline – the discipline-blockade, and the discipline mechanism. The former is an inward-looking, bounded institution, located on the edges of society; the Panopticon is an example of this. The latter is a more generalized and efficient technology of power that is dispersed throughout society, exerting subtle control over the entire population. This is Foucault’s idea of “panopticism” which results in a coercive, disciplinary society. The automation and extension of panoptic principles from the guard’s eye to the electronic eye to large optical surveillance systems is exactly the kind of leap Foucault had imagined. He refers to these as “mechanisms that analyze distributions, gaps, series, combinations, and which use instruments that render visible, record, differentiate and compare: a physics of a relational and multiple power.”

It is clear that in Foucault’s mind technology is responsible for the radicalization of vision leading to the development of surveillance apparatuses. The problem therefore lies in technological refinements of transparency, which paradoxically obscure the workings of power.

242 Ibid., 244.
243 In his later work Foucault formulates the catch-all term “governmentality” which “links technologies of the self with technologies of domination, the constitution of the subject to the formation of the state.” Thomas Lemke, "Foucault, Governmentality, and Critique" (paper presented at the In Rethinking Marxism Conference, University of Amherst (MA) 2000), 3. It captures the connection between governing, modes of thought and technologies of power. Lemke, "Foucault, Governmentality, and Critique", 2. Foucault gives a comprehensive three part definition in an essay titled *Governmentality*: "1. The ensemble formed by the institutions, procedures, analyses and reflections, the calculations and tactics that allow the exercise of this very specific albeit complex form of power, which has as its target population, as its principal form of knowledge political economy, and as its essential technical means apparatuses of security. 2. The tendency which, over a long period and throughout the West, has steadily led towards the pre-eminence over all other forms (sovereignty, discipline, etc) of this type of power which may be termed government, resulting, on the one hand, in formation of a whole series of specific governmental apparatuses, and, on the other, in the development of a whole complex of savoirs. 3. The process, or rather the result of the process, through which the state of justice of the Middle Ages, transformed into the administrative state during the fifteenth and sixteenth centuries, gradually becomes 'governmentalized.’” Michel Foucault, *The Foucault Effect : Studies in Governmentality*, ed. Colin Gordon, Peter Miller, and Graham Burchell (Chicago: University of Chicago Press, 1991), 102-03.
244 Foucault, *Discipline and Punish: The Birth of the Prison*, 199.
undermining the positive value of such concepts as openness, authenticity, truth, the right to information, accountability, and trust.\textsuperscript{245} Thus transparency has become synonymous with “coerced vision” and “the connection between vision and freedom is being dissociated.”\textsuperscript{246} As David Levin elaborates:

> Due to the dominance of the prefabricated and of technologically precast situations and aspects; the modern extension of sensory spheres has not become a source of freedom….vision is no longer a path to wisdom or redemption, no longer even a method for acquiring knowledge and achieving freedom, but rather a technology complicitous with domination and forces that threaten new “darkness.”\textsuperscript{247}

Transparency’s primary objective was to expose forms of social and political control. The Enlightenment discourse advocated the transparency of power, but in practice power was shrouded in secrecy. Also, as Foucault points out, the idea of transparency itself has been used as an instrument of social and political control. Hence Foucault questions the normative value of transparency and rejects the Enlightenment notion of a transparent society.

**Habermas**

Habermas operates from within an Enlightenment framework focusing on the achievements of the Enlightenment rather than the problems it created.\textsuperscript{248}

Picking up on aspects of Kant and Bentham’s views he defends the idea of publicity as an ethical norm. Habermas understands publicity as facilitating rational-critical discourse among

\textsuperscript{245} Foucault in a sense is himself using transparency, albeit in a subversive way, to bring to light the relationship between the idea of vision, power and knowledge. John Rajchman has referred to Foucault as a “visual thinker”, a seer and voyant. Foucault deconstructs technologies of visibility through his own ability to visualize events and histories.


\textsuperscript{247} Ibid.

\textsuperscript{248} Habermas retains Enlightenment notions of rationality, system of rights, universal law and morality and social, political emancipation; however, he shifts these ideas into the domain of communicative rationality. The major pathology of modernity according to Habermas is instrumental reason. He believes that once these ideas of rights, law, morality etc are subject to a communicative rationality, social and political emancipation will follow.
citizens. This is an integral part of a democracy. It enables the public to make good judgments and helps forge a closer relationship between representatives and citizens, benefiting both sides.

While Habermas’ version of publicity bears a “family resemblance” to the ideas espoused by Kant and Bentham, it deviates significantly from both of them.

In Kant morality and moral questions were addressed by the individual through a process of private, personal reflection. Habermas addresses moral question in public though interpersonal dialogue. Habermas emphasizes this difference:

Rather than ascribing as valid to all others any maxim that I can will to be a universal law, I must submit my maxim to all others for purposes of discursively testing its claims to universality. The emphasis shifts from what each can will without contradiction to be a general law, to what all can will in agreement to be a “universal norm.”

Habermas argues that Kant’s method of addressing moral questions is “monologic”, i.e., an individual resolves moral question (and makes universal laws) through transparent-reflection as if he were acting in behalf of everyone. Hence in principle moral decisions are solitary acts. Habermas claims that not everyone thinks alike, so there needs to be communication between individuals with different viewpoints.

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249 Two main assumptions of Habermas’ discourse ethics are: 1. The “principle of universalization” wherein people must have the same set of assumptions prior to entering into a discourse. 2. The norms that emerge from the discourse are valid only if they are approved by “all affected” by them. Jurgen Habermas, ChristianLenhardt, Shierry Weber Nicholsen, Moral Consciousness and Communicative Action (Cambridge: MIT Press, 1992), 65-66. It is well documented that Habermas has borrowed from Kant’s idea of the categorical imperative but has moved it from the realm of consciousness to operate in the realm of language. Universally applicable norms in Habermas’ theory are instituted as a result the principle of universalization; however the process of discovering these norms is public and intersubjective. Opacity is a threat to universalization in the intersubjective realm. Transparency has an important role to play as meanings and motives have to be made clear to all involved for there to be a legitimate consensus.

250 Ibid., 67.


252 In the above sense Habermas may seem to be subjective however he does believe that it is possible for plural individuals to reach a rational consensus and move from opinion to (objective) truth.
Habermas regards Bentham as the pioneer of the public sphere. Focusing almost exclusively on Bentham’s work *On Publicity*, he credits Bentham with the transformation of “opinion” into “public opinion.” However the two diverge at a critical point: Bentham is suspicious of political speech and uses disciplinary methods (such as bookkeeping; Bentham preferred the medium of print as a vehicle of public debate as opposed to speech) to circumvent the dangers of speech. Habermas is committed to public dialogue and this forms a critical part of his theory of democracy.

The role of publicity Habermas says is “to subject persons or issues to rational-critical public debate and to render political decisions...to review before the court of public opinion.” Habermas’ idea of publicity is intimately linked with the idea of the public sphere. It is part of the communicative infrastructure of the public sphere. The success of communication in the public sphere in turn hinges on the idea of transparency.

Habermas defines the public sphere as:

A domain of our social life in which such a thing as public opinion can be formed. Access to the public sphere is open in principle to all citizens. A portion of the public sphere is constituted in every conversation in which private persons come together to form a public. They are then acting neither as business or professional people conducting their private affairs, nor as legal consociates subject to the legal regulations of a state bureaucracy and obligated to obedience. Citizens act as a public when they deal with matters of general interest without being subject to coercion; thus with the guarantee that they may assemble and unite freely, and express and publicize their opinions freely.

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253 Habermas’ narrow focus rescues Bentham’s idea of publicity from its negative connotations of surveillance. This rescue mission is based on Habermas’ larger philosophical aim of deeming modernity an unfinished project and resolving some of its tensions.

254 Habermas writes: “From Plato’s *doxa* to Hegel’s *Meinen* opinion meant uncertain, not fully demonstrated judgment. “Opinion” in the sense of a judgment that lacks certainty, whose truth would still have to be proven, is associated with “opinion” in the sense of a basically suspicious multitude. “Opinion”.. did not evolve straightforwardly into “public opinion”; that late eighteenth century coinage that would refer to the critical reflections of a public competent to form its own judgments.”

255 Gaonkar and McCarthy, “Panopticism and Publicity: Bentham’s Quest for Transparency,” 571.

256 Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, 201.

Habermas describes the public sphere as both a concrete and a virtual space. Historically the public sphere came into existence in the West in the late eighteenth and early nineteenth centuries. The rise of capitalism and the emergence of the bourgeois class led to new kinds of institutions and spaces for gathering and discussion, such as the press, coffeehouses and salons. According to Habermas the public sphere was actualized in these locations. Conceptually, the ideal public sphere is located at the intersection of state and society; it is composed “of private people gathered together as a public and articulating the needs of society with the state.” It is formed through dialogue, speech acts, debate and discourse, and it provides legitimacy to the functioning of democracy. The public sphere therefore is a place where public opinion is generated, and it is marked by transparency, universal access, equality among participants, freedom from coercion, and independence from state intervention.

Habermas identifies transparency as being the cornerstone of democratic discourse in the public sphere. Habermas’ public sphere is a transparent space in two ways: it is a forum that promotes publicity and roots out political secrecy. Habermas stresses transparency in public institutions (mainly political parties and the press), and he calls for transparency in the workings of these institutions as well as transparency between institutions: “this would include, for instance, requiring that the organizations provide the public with information concerning the source and deployment of their financial means.” Secondly, in a Rousseauian sense, the citizens in the ideal public sphere are transparent to one another. It is this facet of transparency

258 Habermas, The Structural Transformation of the Public Sphere : An Inquiry into a Category of Bourgeois Society, 176.
259 Habermas argues that through voluntary associations, social groups, churches, sports clubs, grassroots activism, and trade unions public debate can be maintained and this is important to resist or subvert the state’s authority.
260 Habermas, The Structural Transformation of the Public Sphere : An Inquiry into a Category of Bourgeois Society, 209.
that Habermas emphasizes and is my main concern in this chapter. Beth Simone Noveck aptly captures this aspect:

Transparent public places are those where citizens interact as citizens in reasoned public discourse. It is public discussion, not only because it deals with topics of common import, but also because individuals are transparent. What makes them transparent is that these participants in the debate are visible to one another as frank and accountable members of the community of dialogue. That is to say, they are not clothed with the armour of money and power but, for the most part, come naked of these attributes. The special rules for the distribution of speech rights in this public place make their power manifest and render it irrelevant for the purpose of the public debate.\(^{261}\)

Habermas emphasizes the communicative aspects of a democracy. Deliberative democrats such as Habermas believe that there is more to a democracy than conducting elections and casting votes. Legitimacy arises not just through exercising one’s franchise but also from participation in the decision making process. The formation of public opinion is dependent on the existence of a public that participates in rational-critical discourse. The public sphere is the arena where the public can deliberate and action oriented towards a consensus can take place. It is the “social space generated in communicative action.”\(^{262}\)

Habermas defines communicative action as a “form of social interaction in which the plans of action of different actors are co-ordinated through an exchange of communicative acts, that is, through a use of language orientated towards reaching understanding.”\(^{263}\) The goal of non-manipulative communication (discourse and communicative action\(^{264}\)) is to achieve an


\(^{262}\) Habermas, *Between Facts and Norms*, 360.

\(^{263}\) ———, *The Theory of Communicative Action*.

\(^{264}\) Communicative action is where the participants share common assumptions that can be taken for granted hence communication leads to (practical outcomes) agreement that can be immediately put into practice. If participants do not share common background assumptions then they take part in “discourse” (which deals with matters of morals and politics). This is a higher form of communication that pursues the truth of the matter and it does not deal with matters of immediate, practical relevance. For the truth to be reached participants may need to challenge several previously held notions. Discourse is the first step which can then be followed by communicative action.
“intersubjective mutuality of reciprocal understanding, shared knowledge, mutual trust, and accord with one another.”

In an intersubjective discourse transparency is imperative for the outcome to be legitimate. Habermas is careful to acknowledge that transparency cannot be created just by making words transparent. Discourse can only be legitimate if the motives of the participants are transparent, he says. As Thomas McCarthy explains:

To discourse are admitted only speakers who have, as actors, the same chance to employ representative speech acts, to express their attitudes, feelings, intentions, and so on that the participants can be truthful in their relations to themselves and can make their inner natures transparent to others.

Habermas’ approach is designed to make self-interest transparent.

Thus Habermas understands communication not by analyzing language but by examining how selfhood and intersubjective relationships influence communicative action. In the realm of dialogue, power based relationships are partially overcome by exposing them for what they are and bringing them out into the open (making them transparent!). For Habermas transparency regarding an agent’s beliefs and motives, which is not influenced by external sources, is a prerequisite to the attainment of autonomy. Habermas believes that autonomy is achieved by practicing self-transparency, in the way it justifies itself to others and presents itself to them. The

The difference between the two is fuzzy in Habermas’ writings; however, they are both non-manipulative forms of communication as opposed to the two manipulative forms which he identifies as instrumental action and strategic action.


266 The use of the term intersubjective is a step beyond the objective/subjective binary. It moves past claims of objective knowledge, yet it is not mired in relativism by reducing everything to a subjective point of view. An intersubjective consensus can be reached based on what has been agreed upon by the participants in a discourse.

267 Critics of Habermas argue that semantic transparency can lead to domination as meanings get purged out of words, and this kind of control over language is reminiscent of totalitarian regimes. Gregory Garvey writes: “Just as an individual can claim to “own” a word when he or she can purge it of meaning beyond his or her intent, a social class or group “owns” a language when it has the power to purge meanings that do not reflect its ideological interests.” T. Gregory Garvey, “The Value of Opacity: A Blakhinian Analysis of Habermas's Discourse Ethics,” Philosophy and Rhetoric 33, no. 4 (2000): 379. Habermas believes that the meaning of descriptive terms that define the identity of the individual or group and is a factor of culture needs to subjected to open dialogue and discussed in order for the terms to become increasingly transparent. The issue is not that meanings should be purged and homogenized, but that individuals are able to represent their interests honestly and these can be understood as such.

autonomous self must possess the self-discipline to present reasons for its behavior, express its motivations and come clean about its interests. Mark Warren clarifies:

When one must explain oneself to others, Habermas holds, individuals come to understand why they feel as they do in justifying their needs and interests to others. In doing so, they may alter their need interpretations, finding that their previous need interpretations, often absorbed uncritically from their culture, were inappropriate and perhaps even a source of unhappiness to themselves. Or they may become more convinced of the rightness of their claims. In either case, however, discursive argument increases individual autonomy.269

Any attempt by the participants to consciously withhold their motives/agendas violates the principles of discourse, and in the absence of transparency communication is transformed into a form of strategic action.

Strategic action uses force rather than democratic consensus as a means of validation. Language becomes a vehicle of power and domination. Unlike communicative action, which is a "transparent process of reaching an understanding,"270 participants veil their true intentions and see no need to conduct themselves in ways that entail authenticity, truthfulness, or openness. Habermas acknowledges the limits of intersubjective understanding. He does realize that communication is likely to be plagued by competing interests and unequal distributions of power. The belief in “a non-coercively unifying, consensus building force of a discourse in which the participants overcome their at first subjectively biased views in favor of a rationally motivated agreement”271 is combined here with a keen awareness that communications remain “systematically distorted” in a “money-bound” media driven society that keeps public discourse from realizing its full critical potential.272

270 Habermas, The Theory of Communicative Action,150
272 Ibid., 256-57.
At the same time, Habermas optimistically develops the notion of an “ideal speech situation” or a fully realized dialogical standard, as a kind of ideal limit. He describes the ideal speech situation as one where undistorted communication is achieved, thereby making rational consensus possible. He explains:

No matter how the intersubjectivity of mutual understanding may be deformed, the design of an ideal speech situation is necessarily implied in the structure of potential speech, since all speech, even of intentional deception is oriented towards the idea of truth. This idea can only be analyzed with regard to a consensus achieved in unrestrained and universal discourse. Insofar as we master the means for the construction of an ideal speech situation, we can conceive the ideas of truth, freedom and justice.  

Habermas lists four criteria in defining the ideal speech situation: “a) the comprehensibility of the utterance, b) the truth of its propositional component, c) the correctness and appropriateness of its performatory component, and d) authenticity of the speaking subject.” Three out of these four requirements (comprehensibility, truth and authenticity) are dependent on the self-transparency of the speaker, thus making transparency a pre-requisite to achieve undistorted communication. So Habermas’ normative theory is based on the “fiction of transparency of communication.”

Transparency as introspection does have its benefits in the sense that it could result in re-thinking some culturally acquired, unexamined ideas (as Mark Warren has argued). But as I have noted earlier, there is an element of radicalization (of vision) associated with the metaphor of transparency. Mandating that thoughts be made public could actually lead to a loss of autonomy. Requiring citizens to reveal everything about their lives (without respect for any kind of privacy) could lead to a realization of the dangers of normalization and social discipline that Foucault warns us about. Foucault portrays transparency as a totalizing form of vision that is radicalized.

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274 Habermas, Theory and Practice, 18.
275 ———, The Theory of Communicative Action, 149.
by technical and technological inventions (such as panopticism and the Panopticon). Foucault’s insight is that the logic of transparency is governed by instrumental reason (also known as technocratic reason). Foucault apprehends reason as a mechanism of coercion, and he sees little value in preserving this mode of domination. Habermas understands Foucault’s concern; however he believes that reason can be used for both domination and emancipation. He distinguishes between instrumental, strategic and communicative rationality. He rejects the first two but retains the latter as the basis of communication. Habermas shifts the concept of reason from the conceptual to the social realm. Communicative rationality is “oriented to achieving, sustaining and reviewing consensus - and indeed a consensus that rests on the intersubjective recognition of criticizable validity claims.”

Action resulting from this kind of reasoning is designated as communicative action, which is the process by which diverse validity claims are linguistically resolved in an acceptable manner. Hence Habermas is only opposed to manipulative forms of reason, i.e., strategic rationality and instrumental rationality, which in turn give rise to strategic action and instrumental action. They are both coercive forms of communication oriented towards successful ends, the former pertaining to the social realm while the latter pertains to non-social contexts or the technical realm.

Habermas accounts for the various forms of strategic action prevalent in the public sphere. For instance, he is well aware that the transparency of the public sphere has been undermined by certain negative types of publicity or “manipulative publicity” (such as

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276 Ibid., 17.
277 Ibid., 78.
278 Communicative and strategic actions are linguistic interactions that take place in the lifeworld as opposed to instrumental action which is non-social and is part of the system. The lifeworld is the world encountered on a day to day level by individuals. The public sphere is part of the lifeworld. The system generally refers to non social, technical aspects such as the market economy and state apparatus. Habermas is wary of systems tendency to encroach upon and exercise domination over the lifeworld.
279 Habermas, The Structural Transformation of the Public Sphere : An Inquiry into a Category of Bourgeois Society, 178.
advertising and public relations campaigns by interest groups and political parties). Such manipulation diminishes the public's power to think critically and participate in meaningful ways. Habermas is also against visual excesses in the form of “showy pomp” and “staged display,” the kind of propaganda used by those in positions of power to establish control over opinions. He argues that “intelligent criticism of publicly discussed affairs gives way before a mood of conformity with publicly presented persons or personifications.” Such manipulative activity jeopardizes the authenticity of public opinion because “the sender of the message” hides his true intentions in the guise of someone who is concerned about the public interest. Dialogue is thus compromised by “image management.” All this taints the public sphere, which ceases to exist in its true form. Therefore Habermas proposes “restructuring” the public sphere in keeping with the principles of “critical publicity.”

However, what Habermas does not seem to take into account is that even in its desirable forms publicity, which is oriented towards public discussion and critique, has been distorted by the current technoculture. Information is the foundation of publicity and the public sphere. Jodi Dean argues that Habermas “misses the way that in contemporary technoculture the very process of being informed, the very goal of knowing reproduces capitalist domination. To know, one has to consume information and the media and technologies that provide it. One has to engage a program that runs surveillance, accumulation, aggregation, and dissemination.”

Habermas fails to take into account the complexity of modern technology; the deeper issue at stake here is that the key condition for Habermas’s normative project i.e., transparency, itself seems to be the fruit of what he calls instrumental action.

280 Ibid., 195.
281 Ibid., 206.
282 Ibid., 195.
283 Ibid., 193.
284 Dean, Publicity's Secret, 143-44.
As mentioned earlier, instrumental action refers to the realm of technical governance within a rational system. Habermas argues that, unlike communicative action, instrumental action is not inherently emancipatory, as the public has very little control over technical aspects of the life-world. According to the prominent philosopher of technology Andrew Feenberg, Habermas’ critical theory makes too sharp a distinction between technical and communicative modes of action, and it uncritically subscribes to technological determinism by investing too much autonomy in instrumental action. The separation of the technical and communicative modes in his characterization of the life world obscures the normative implications of technical rationality. Taking critical theory a step further, Feenberg explains that “technical choices both presuppose normative choices and have normative consequences.”

Since the new modes of communication are heavily dependent on technology, Habermas’ concept of communicative action is increasingly coupled to his notion of instrumental action. Many of his important works were written prior to the full-fledged digital revolution. Habermas’ model is based on face-to-face communication and dialogue rather than technologically mediated communication (through new media such as the Internet). Discussions no longer take place in coffeehouses and salons but instead are conducted through many layers of technology (for example, the world wide web). The subsequent growth of information and communications technology complicates the Habermasian picture. In his later writings he does not sufficiently acknowledge recent technological advancements in communication. This makes the theory

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286 Habermas seldom explicitly mentions new technologies. On a rare occasion he shares his views on the Internet in a footnote in a fairly recent article. He writes: “The Internet has certainly reactivated the grassroots of an egalitarian public of writers and readers. However, computer-mediated communication in the web can claim unequivocal democratic merits only for a special context: It can undermine the censorship of authoritarian regimes that try to control and repress public opinion. In the context of liberal regimes, the rise of millions of fragmented chat rooms across the world tend instead to lead to the fragmentation of large but politically focused mass audiences into a huge number of isolated issue publics. Within established national public spheres, the online debates of web users only promote political communication, when news groups crystallize around the focal points of the quality press, for
seem dated as information is no longer transparent but, rather, is channeled through and 
manipulated by technology. Here Marshall McLuhan’s famous statement that “the medium is the 
message” comes to mind; technology embeds itself in the content, making the message more 
complex and opaque. Also, there is a physical distance between interlocutors which makes the 
Habermasian kind of self-transparency more difficult to gauge and achieve. By neglecting new 
forms of technology Habermas ignores important aspects of the interaction between 
communicative action and instrumental action. Moreover, his key idea of transparency is caught 
in this interaction and compromised by it. 287

It has been noted by such commentators as David Levin that Habermas’ theories have a 
distinct oral bias. By focusing so heavily on language and communication Habermas manages to 
escape modernity’s emphasis on vision, so his theory is indeed a worthy opponent to Foucault’s 
gaze. However, claims that Habermas “abandons vision for the force of the better argument”288 
may not be entirely accurate; for he continues to rely on visual metaphors such as the idea of 
transparency in his writings. By doing this Habermas formulates his idea of speech and dialogue 
in terms of vision. Georgia Warnke puts it this way:

On the one hand, Habermas …offers an ideal of consensus and political-will 
formation that tries to introduce reason into our social disputes by moving beyond 
a reliance on perspective and vision to develop a reliance on rational 
argumentation. The suspicion persists, however, that if we cannot come to see 
things in similar ways, our surface agreements on moral norms will be

example, national newspapers and political magazines.” Jurgen Habermas, "Political Communication in Media 
Society: Does Democracy Still Enjoy an Epistemic Dimension? The Impact of Normative Theory on Empirical 
Research," Communication Theory 16, no. 4 (2006): 423-24, fn 3. 287 In an interesting update, Habermas’ proponents have suggested using his own ideas of publicity and 
communicative action to potentially mitigate the problem of instrumental action. The case against instrumental 
action is that discourse is replaced by technologies that manipulate and subjugate the public; this deters participation 
and alienates the public. Through publicity and communicative action, technical and technological decisions can be 
debated upon and controlled by the public, working in a way that benefits all. For instance, this provides a solution 
to Foucault’s problem with the technical and technological manifestations of transparency where by subjecting ideas 
to the forum of public discourse the meaning and application of techniques and technologies of transparency can be 
derived intersubjectively, on a Habermasian platform. I build on this idea in my final chapter. (see Chapter V) 288

Georgia Warnke, "Ocularcentrism and Social Criticism," in Modernity and the Hegemony of Vision, ed. David M 
undermined by more fundamental disagreements having to do with the interpretation of the moral situation and the application of moral norms.\textsuperscript{289}

Martin Jay affirms the view that in Habermas “the continuing importance of what might be called the objectifying, distantiating implications of the lumen/lux tradition might be discerned.”\textsuperscript{290} Hence, by retaining the Enlightenment notion of idea of transparency in his normative theory Habermas does not escape the Enlightenment’s ocularcentric view of politics.

\textit{Conclusion}

Foucault may be right when he says (alluding to Habermas) that society cannot “exist without power relations, if by that one means the strategies by which individuals try to direct and control the conduct of others. The problem, then, is not to try to dissolve them in the utopia of completely transparent communication but to acquire the rules of law, the management techniques, and also the morality, the ethos, the practice of the self that will allow us to play these games of power with as little domination as possible.”\textsuperscript{291}

Habermas defends himself against Foucault’s allegation this way:

\begin{quote}
Nothing makes me more nervous than the imputation… that because the theory of communicative action focuses attention on the social facticity of recognized validity-claims, it proposes, or at least suggests, a rationalistic Utopian society. I do not regard the fully transparent society as an ideal, nor do I wish to suggest \textit{any} other ideal.\textsuperscript{292}
\end{quote}

He in turn has accused Foucault of crypto-normativity, i.e., he assails the norm in normative terms without overtly assuming a normative stance. Habermas presents Foucault with this question: “Why fight at all?” in an attempt to show that Foucault’s critique of power is futile

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\textsuperscript{289} Ibid., 305. \\
\end{flushright}
since he does not provide a constructive strategy to combat the normalizing effects of power.

Habermas continues:

If it is just a matter of mobilizing counter-power, of strategic battles and wily confrontations, why should we muster any resistance at all against this all-pervasive power circulating in the bloodstream of the body of modern society, instead of just adapting it to ourselves?293

Habermas’ contention is that Foucault’s crypto-normativity “undermines the rational basis and practical efficacy of critique.”294

To answer Habermas’ charge against Foucault, in a later work Foucault does clarify that power ultimately inheres in the individual, including the surveiled or punished. In his essay titled “The Subject and Power” he maintains that power relations can only exist between ontological equals and that this relationship cannot exist without assuming the freedom of both participants: “power is exercised only over free subjects and only in so far as they are free.”295 He even goes so far as to say “that there is no relationship of power without the means of escape or possible flight.”296 This is especially relevant in the panoptic situation, as by implication asymmetric power relationships such as the prison inspector-inmate, teacher-pupil, employee-worker etc are potentially reversible.

Since transparency is an instrument of power it is imperative to understand the workings of power as Foucault does. Foucault is firm in his belief that power per se is not repressive. He explains:

When one speaks of “power,” people think immediately of a political structure, a government, dominant class, the master facing the slave, and so on. That is not at all what I think when I speak of “relationships of power.” I mean that in human relations, whatever they are—whether it be a question of communicating verbally…or a question of love relationship, an institutional or economic

293 Habermas, The Philosophical Discourse of Modernity: Twelve Lectures, 284.
296 Ibid.: 794.
relationship-power is always present: I mean the relationships in which one wants to direct the behavior of another...These relations of power are changeable, reversible, and understandable...Now there are effectively states of domination. In many cases, the relations of power are fixed in such a way that they are perpetually asymmetrical and the margin of liberty is extremely limited.\textsuperscript{297}

The trouble with the concept of transparency for Foucault is precisely this asymmetry in power where the ordinary citizen is almost always an “object of information, never a subject in communication.”\textsuperscript{298} Habermas’ theories of publicity and communicative action attempt to reverse this asymmetry, but he fails to avoid the pitfalls of a lingering Enlightenment rationality. Foucault argues:

\begin{quote}
Just as the ability to read and write and freely communicate gives power to citizens that protects them from the powers of the state, the ability to surveil, to invade the citizens’ privacy, gives the state the power to confuse, coerce and control citizens.\textsuperscript{299}
\end{quote}

In the above statement he captures the essence of the Janus faced quality of the idea of transparency as both publicity and surveillance.

Foucault makes transparency synonymous with surveillance. According to him we inhabit a world in which we are constantly being watched, judged, disciplined, evaluated and controlled by different “experts”: “the judges of normality are everywhere.”\textsuperscript{300} Hence it is not surprising “that prisons resemble factories, schools, barracks, hospitals, which all resemble prisons.”\textsuperscript{301} The explosion in surveillance of public and private spaces makes the idea of the Panopticon relevant to entire cities where the population can be construed as living in a giant Panopticon.

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\textsuperscript{298}Foucault, \textit{Discipline and Punish: The Birth of the Prison}, 200.
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\textsuperscript{299}Michel Foucault, \textit{The History of Sexuality} (London: Allen Lane, 1979), 290.
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\textsuperscript{300}Foucault, \textit{Discipline and Punish: The Birth of the Prison}, 304.
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\textsuperscript{301}Ibid., 228.
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On the other hand, Habermas equates transparency with the idea of publicity (a part of his linguistic turn away from visual politics) as a move designed to combat dominating forces (such as the state and instrumental reason). He undertakes an extremely important task in showing how only a certain kind of communication--and, behind that, a certain mentality--is fully compatible with the logic of democratic aspirations. However, I argue that this emancipatory impulse is compromised by a continued reliance on the use of the Enlightenment metaphor of transparency which is in itself a product of instrumental reason (as argued by Foucault). Nevertheless, Habermas’ normative theory still holds promise if we simply acknowledge and try to overcome its problematic aspects.302 His concept of the public sphere, if revised to fit the current technoscene, can “erect a democratic dam against the colonizing encroachment of system imperatives on areas of the lifeworld.”303

So, is there a clear winner in this debate? In this chapter I am biased towards Foucault because I believe he does a real service in untangling the web of power that surrounds the notion of transparency. I have used his understanding of power to critique the popular use of the ideal of publicity in democratic theory, of which Habermas is one of the best representatives. Ultimately, I do believe that Foucault exaggerates the extent to which modern life is a trap. I leave a

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302 Discussions no longer take place in coffeehouses and salons but instead discourse is mediated through many layers of technology (for example communication via the world wide web).
The public sphere also needs to incorporate new (and the not so new) social movements. Habermas’ bourgeois public sphere was the domain of white, male, property-owners. As his critics have pointed out Habermas has overlooked the working class, plebian and women’s public spheres that developed around the bourgeois public sphere. By his own admission he had “underestimated” their significance.
Also, another problem with Habermas’ critical theory lies in its formalism. As a result Habermas’ model of communication essentially obscures existential question. Habermas attaches his view of the public sphere to a form of communication that is idealized and abstracted from the real world where actual dialogue takes place and the working of social and political power are operational on a daily basis. Unlike communication in Habermas’ lifeworld there is seldom a “transparent process of reaching an understanding” in the real world. His idea of communicative rationality is almost as abstract in its formalism as Kant’s subject-centered notion of reason. Hence Habermas’ theory needs to be more embodied, reflexive, imaginative and critical in order to remain current.
discussion of this matter for the end, when I revisit the Foucault-Habermas debate in the concluding chapter.

In the next chapter I examine the current technologies and techniques of transparency being used for the purposes of surveillance and as vehicles of publicity, arguing against the “technization” of the social values which transparency as a technique and technology is meant to foster.
**IV. Surveillance and Publicity:**
The Implications of the New Technologies of Transparency

*Men have dreamed of liberating machines. But there are no machines of freedom, by definition.*
- Michel Foucault

**Introduction**

In the previous chapters I have reviewed the intellectual history of the politics of transparency. I now move into a discussion of the present day logic of transparency as both surveillance and publicity and the way in which they affect the field of politics. This chapter is designed to examine the new technologies of transparency that have been invented for the governance of the self and society, and it will examine some of our naiveté regarding their purpose.

With an explosion of tracking devices, surveillance cameras in shops, homes and public spaces, information laden smart cards with microchips that carry much of our personal information, and Internet and email monitoring devices, it is not hyperbole to say that we now inhabit what can appropriately be characterized a post-panoptic society. Aided by Foucault and some of his interlocutors such as Gilles Deleuze, I seek here to present an updated perspective on surveillance.

After Foucault many believe there has been a change, and they claim that the gaze is no longer asymmetric. The state is not the only institution that can engage in surveillance they say; surveillance has been democratized, and several “Little Brothers” have taken the place of “Big Brother.” As a result, for most of us surveillance no longer conjures up sinister Orwellian

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305 Many of the ideas I discuss in this chapter (such as privacy, security, each of the technologies) are worthy of an entire dissertation of their own, however, I merely touch upon these to establish their relationship to the idea of transparency.
images. We live in a surveillance society but without the paranoia of being in that position. I analyze in detail as to why this makes us complicit in the panoptic mode of living.

I posit that the current embrace of transparency as an instrument of surveillance has a utilitarian logic: we give up privacy of space and self to increase the efficiency and convenience of our lives and reduce social risk. The technologies that collect information about us also make our lives easier and/or purport to keep us safe. If my analysis is valid, this is the latest chapter of an ongoing contestation and negotiation between autonomy and utility. However, there are certain aspects to this latest turn toward utility which are new, that go beyond notions of efficiency and convenience. I evaluate this development by relating it to our post-modern context.

With regard to transparency as publicity, I contend that publicity in the original sense of a public free to know, think, read, write and mobilize public opinion is being replaced by new visual technologies that are accompanied by a global desire for transparency. In this section, I draw out the connection between transparency and publicity and in particular the effect of technology on this relationship. I contend that there is a certain radicalization of vision associated with the idea of transparency today that sets it apart from the original notion of publicity. Publicity when understood as transparency leads to an emphasis on vision and watching, as opposed to speech and dialogue. This trend is further exacerbated by technologies that enhance our ability to see more (and better).

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306 Jean Baudrillard in his essay *The Violence of the Image* argues: “We are far beyond the panoptikon, where there was still a source of power and visibility it was so to say a panexoptikon - things were made visible to an external eye, whereas here they are made transparent to themselves - a panendoptikon - thus erasing the traces of control and making the operator himself transparent. The power of control is internalized, and people are no more victims of the image : they transform themselves into images.” From: [http://www.egs.edu/faculty/ baudrillard/baudrillard-the-violence-of-the-image. html](http://www.egs.edu/faculty/baudrillard/baudrillard-the-violence-of-the-image.html) (accessed on August 15, 2009)
I suggest that our over-reliance on technology has moved the idea of publicity from the communicative realm to a technical one. Using the Internet and mass media as examples, I explain the above claim and show that the concept of publicity is being undermined by a technocratic society where the notion of discourse has been severely eroded. I conclude that the flood of information to which we are now being exposed actually impedes the formation of a public, but only a public is capable of real agency. Therefore, technology as a vehicle of publicity tends to be subversive of real public agency. Finally, I discuss how the erosion of dialogue in society (as enshrined in the concept of publicity) can lead to a collapse of the distinction between the ideas of publicity and surveillance.

*Transparency as Surveillance*

Foucault was prescient in identifying Bentham’s Panopticon as a pivotal moment in the history of surveillance. The advances in communications and surveillance technologies have extended Bentham’s panoptic principle to a place neither Bentham nor Foucault could have imagined. This being said, certain prominent contemporary theorists such as Gilles Deleuze believe that the panoptic model is no longer relevant. Deleuze asserts that by focusing solely on the individual, Foucault failed to take into account the effects of surveillance on the “collective subject.” He declares that we have transitioned from Foucault’s “disciplinary society” to a “society of control.” Power, discipline and control are no longer confined within the walls of the Panopticon; they are dispersed throughout society. A prison is a homogenous space, unlike a city, which is diverse, so it is difficult to compare urban surveillance to the Panopticon. A control society is one “where citizens are disciplined through a real-time monitoring of their behaviors as

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they move with apparent freedom through space.\textsuperscript{308} Even though people in cities are free to enter and leave places as they want, it is increasingly difficult to live in a city without being subjected to controls of various sorts, many of which are described later in this chapter. Rather than the body, it is the environment (physical, material, cultural) that is controlled, thereby regulating the subject that moves through this space.

It is noteworthy that Deleuze attributes the transition from a society of sovereignty to a disciplinary society, and then to a society of control, largely to the evolution of technology. He writes:

Types of machines are easily matched with each type of society--not that machines are determining, but because they express those social forms capable of generating them and using them. The old societies of sovereignty made use of simple machines--levers, pulleys, clocks; but the recent disciplinary societies equipped themselves with machines involving energy, with the passive danger of entropy and the active danger of sabotage; the societies of control operate with machines of a third type, computers, whose passive danger is jamming and whose active one is piracy or the introduction of viruses.\textsuperscript{309}

Deleuze explains that in societies of control, surveillance gives way to dataveillance based on the “manipulation of coded information.” Much of surveillance today does not directly see people as much as it gathers data taken from people which represents them, such as finger-prints, DNA, or facial recognition. David Lyon nicely summarizes this point:

The subject is multiplied and decentered in the database, acted on by remote computers each time a record is automatically verified or checked against another, without ever referring to the individual concerned… computers become machines for producing retrievable identities.\textsuperscript{310}

Building on the idea of dataveillance, Philip Agre describes what he terms a capture-model of surveillance. He claims that surveillance can no longer be conceptualized as a top-down model that is imposed on an individual, such as Foucault’s disciplinary model. The capture

\textsuperscript{308} Katherine N. Hayes, "Waking up to the Surveillance Society," \textit{Surveillance and Society} 6, no. 3 (2009): 314.  
\textsuperscript{309} Deleuze, "Postscript on the Societies of Control," 5.  
model works through the individual’s preferences, through the rhetoric of convenience and security, and thus only indirectly does it act as a system of social control. The subject rather than being confined is extremely mobile, and his/her activities are recorded by means of cell phone records, GPS coordinates, credit card histories, pin numbers, commercial website visits and biometric data banks located in fixed places. This system of control is not necessarily less coercive than the disciplinary model; however, it is a more dynamic one.\footnote{In a society of control surveillance/dataveillance affects almost everyone and their daily lives. As opposed to the disciplinary model, the target is no longer a small group of individuals confined within the walls of a prison, the entire population and their movement through public space is open to observation and control.}

So, the question that arises given the new technologies and new modes of control, is this: is the Panopticon an “exhausted surveillance metaphor?”\footnote{Benoit Dupont, “Hacking the Panopticon: Distributed Online Surveillance and Resistance,” Sociology of Crime, Law and Deviance: Surveillance and Governance 10(2008): 262.} Such figures as Mark Poster, Oscar Gandy, and David Lyon argue that the significance of the panoptic model has not diminished; in fact, they say, panopticism has only become stronger.\footnote{Mark Poster uses the word “superpanopticism” to describe the current trend. See Mark Poster, The Mode of Information (Chicago: Chicago University Press, 1990). In a similar vein, Oscar Gandy views current surveillance practices as a form of “Panoptic Sorting.” See Oscar H. Gandy, The Panoptic Sort: A Political Economy of Personal Information, Critical Studies in Communication and in the Cultural Industries (Boulder, Colo.: Westview, 1993).}

Surveillance practices today are a variation on an ideal type, i.e., the panoptic principles of observation, classification and normalizing judgment. Dataveillance simply expands the notion of panopticism, as the emphasis is still on making people (the way they act, think, feel and behave) transparent, so as to control them. Paul Virilio calls this the “era of the great global optic.”\footnote{Paul Virilio, "The Visual Crash," in Ctrl[Space]: Rhetorics of Surveillance from Bentham to Big Brother, ed. T.Y. Levin, U. Frohne, and P. Weibel (Boston: MIT Press, 2002), 110.}

I argue that the panoptic model, though powerful and germane, is only one facet of surveillance today. It is important to note that Foucault focuses \textit{solely} on the panoptic model of surveillance (where \textit{the few} watch \textit{the many}). He does not take into account “different
contemporary gazes, multiplied and strengthened by our visual technologies” that allow anyone potentially to watch anyone else. Foucault could not have envisioned the extent to which “gazing” would become a mass phenomenon. We are no longer subject to the “gaze” but are exposed to a plethora of different gazes from various sources all seeking different kinds of information. Hence our current situation needs to be evaluated with these additional factors (i.e., social control through dataveillance and the multiplicity of gazes) in mind.

Surveillance has been on the rise, particularly in recent times. Post 9-11 there has been a sharp increase in surveillance activity and surveillance technologies; both public and private monitoring has proliferated in ways that are disconcerting to those concerned about civil liberties. This is not the Cold War type of surveillance, replete with spies, listening posts, and underground tunnels. Today everyday life is under surveillance, and the common person has become the object (but also the subject) of surveillance. The purpose is “to make visible the identities or the behavior of people of interest to the agency in question.”

The question that naturally follows is: visible to whom? Henri Lefebvre, the French philosopher, poses the political question at stake in this way: “For whom, from whose point of view, will society become transparent? Who will benefit from transparency? Who will thus hold together the totality of society?”

As a neo-Marxist, he thinks “the answer is obvious: the State.”

Since its inception, the modern nation state has always used techniques such as the census and voting records to keep tabs on its citizens. A spurt of new technologies of surveillance has arisen in the public realm in the last few decades. Today video surveillance as a

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315 Levin, Sites of Vision : The Discursive Construction of Sight in the History of Philosophy, 446.
316 David Lyon, "Surveillance Studies: Understanding Visibility, Mobility and the Phenetic Fix," Surveillance and Society 1, no. 1 (2002): 2. David Lyon is the pioneer of a new and fast-growing field of study known as Surveillance Studies. It emphasizes the need to reflect on questions of liberty, security and privacy in these volatile times. It combines contemporary debates on observation, classification, and the power of watching with the classical ones from Bentham, Foucault and others. The field cuts across several areas such as sociology, political science, media studies, technology and policy.
crime prevention mechanism is a constant feature in such public spaces\(^\text{318}\) as city streets, airports, and train stations, which are teeming with CCTV cameras. In addition, technologies such as biometric devices are used in airports and immigration check points.\(^\text{319}\) Some of the other technologies of surveillance in use today include the interception of telecommunications (a.k.a. wiretapping), Radio Frequency Identification technology (RFID), National DNA databases and corporate databases (many of which are accessible to the state on demand). The technologies listed above are only some of the most obvious ways by which we are being made visible to the state.

The new development in our time (besides many of the technologies themselves) is that the state no longer has a monopoly on surveillance activities. For example, CCTV cameras installed by private parties now outnumber those set up by the state; private companies maintain extensive databases containing personal information, and surveillance has even spread to private domains where households are monitored by CCTV cameras to keep intruders at bay.\(^\text{320}\) This trend has been termed the “democratization” of surveillance. Surveillance and access to it have become ubiquitous, so that anyone (not just the state) can watch almost anyone else at anytime and anyplace, at a minimal cost.\(^\text{321}\) Thus, the implication of the democratic gaze is that there is a certain kind of equality guaranteed by the mass accessibility of surveillance technologies.\(^\text{322}\)

The terror evoked by the idea of surveillance which was evident in such 20\(^\text{th}\) century dystopian literature as Orwell’s 1984 is no longer there. One reason is that the proliferation of

\(^{318}\) This is mainly referring to the US, Canada and European cities where such surveillance is already established itself as a part of the urban landscape. However, the same practices are quickly being adopted by the rest of world.

\(^{319}\) The growing area of biometrics has spawned inexpensive devices that can identify people from their voice, eyes, and finger prints etc. In this also lies the potential of smart cards which carry all our data (medical, personal, credit information etc) in an encrypted form, which can be verified by those authorized to do so.


\(^{321}\) In the UK, basic surveillance equipment known as a CCTV kit costs as little as 30 pounds.

surveillance has domesticated the idea of being watched: it has become so commonplace as to seem ordinary. Another explanation which several theorists have put forward is that, “advanced liberalism operates not so much through coercive means as through creating certain conditions that allow people to govern themselves.” Nicholas Rose uses the term “therapies of freedom” to characterize our active participation in what were once considered techniques of domination. He argues that today surveillance technologies function in ways that do not overtly impinge on our selves: instead they align themselves with our political and social ideals. That is to say, these technologies exist because we are made to believe that we require them, and so we willingly permit the intrusion they represent.

I suggest that the above arguments point to a distinctly utilitarian rationale for our complicity in our surveillance. It has three dimensions: 1.) the convenience offered by dataveillance, 2.) the security provided through surveillance, and 3.) the empowerment that comes with exhibitionism. More importantly I look at the trade-offs this involves, i.e., between privacy and liberty, which are increasingly being settled in utility’s favor.

1.) It can be argued that dataveillance is not a new phenomenon. We have been made (numerically) identifiable in the eyes of state for some time now in a number of different ways, for example, by our social security numbers, drivers’ licenses, and state id’s. This is essentially private information; however it is part of public records, so our right to privacy needs to be asserted in order to protect and reclaim our private information.

324 Rose, Governing the Soul : The Shaping of the Private Self, 257.
325 Ibid.
326 An example being “a week after the attacks of 9/11, as most American stocks plummeted, a few companies, with products particularly well suited for a new and anxious age, soared in value. One of the fastest-growing stocks was Visionics, whose price more than tripled. The New Jersey company is an industry leader in the fledgling science of biometrics…Visionics was quick to understand that the terrorist attacks represented not only a tragedy but also a business opportunity.” Jeffrey Rosen, The Naked Crowd: Reclaiming Security and Freedom in an Anxious Age (New York: Random House, 2004), 32. Visionics went on to procure extensive government contracts to provide the biometric devices now in use at airports across the country.
The idea of dataveillance gets complicated with the new, added possibility of consumer dataveillance. The complications are two-fold: a.) we are living in an age where information is an exceedingly important currency of trade. So we are constantly giving out information about ourselves, voluntarily and involuntarily, not just to the state but to private enterprises, in seemingly innocuous ways such as supermarket loyalty cards, credit cards, the use of the Internet, mobile phones, smart cards etc. There is now an entire market that thrives on the collection and dissemination of such data. b.) Significant technological advances in recent times have made it possible and almost effortless to store, analyze and retrieve such information. The above mentioned activities automatically produce data which can be correlated.327

There is little doubt that dataveillance (in the sense of technologies that collect information about us) has also made our lives easier in some ways. For instance, today with a credit/ debit card we are able to buy goods and services (ranging from groceries to books) from the comfort of our homes via the Internet and have those purchases delivered to our doorsteps. However, the information we yield in the transactions, such as our credit card numbers, names, addresses and shopping habits, are recorded and stored in the provider’s database. It is thus a system that benefits both the consumer and service provider. Consumers benefit from the ease of transaction and can even get personalized recommendations based on their previous shopping history; the providers get information about the demographics and shopping habits of their customers that enable them to improve their services. So from a consumer’s perspective utility takes precedence over privacy. Up to this point, the whole exchange is relatively unproblematic and it seems like a win-win situation. However, the information that is collected is not

327 The correlating of data leads to the system of “profiling.” The issue here is that correlations do not say much about the motives of individuals; it merely singles people out on the basis of their itinerary. Hence, preemptive action taken on the basis of profiling deprives individuals of their civil liberties.
necessarily protected.\textsuperscript{328} It can be transferred (and sold) to other parties (including the state) with little oversight.

Not many of us appear to be perturbed by this. It can be argued that some of us are simply not aware of the seriousness of these issues at stake and others choose to turn a blind eye to those issues in the face of the convenience offered by these technologies. In addition to convenience, there is an added incentive/disincentive structure that compels us to comply. For instance, if you use a barcoded loyalty card (which allows you to be identified and records every purchase you make) in a store, you get “rewarded” with a discount and you pay less. On the flip side, it is increasingly difficult to opt out of the system. If you fail to use the loyalty card you get “punished” and can end up paying significantly more for the same goods/services. Hence non-participation comes at a price few are willing to pay.

2.) We are slightly more wary of video surveillance but nevertheless tend to be willing to trade privacy for our security. Such writers as Jeffrey Rosen and David Lyon argue that both governments and the security industry have capitalized on our fear, growing out of tragedies such as 9-11, to promote surveillance technologies in the name of security.

There is increasing pressure on citizens to reveal personal information just to be able to prove that they are trustworthy and have nothing to hide. Moreover, it has been shown that,

\textsuperscript{328} We do not realize our collective vulnerability until we become victims ourselves. A few common ways in which we can be affected if the information we give out is misused are fraud and identity theft. The threat can be more significant as there are those who profit from our naiveté. For example, the governments of US, UK, Canada, and Australia have DNA databases of criminals. Other countries will soon follow their lead. The potential benefit of a DNA database is the crime fighting aspect. However it also gives enormous power to governments. Moreover it is controversial as this information can be used for all kinds of research purposes without the consent of the population. The Icelandic government gave access to its nation’s health records and DNA database to a private company called DeCode Genetics. As the name suggests the company carries out pioneering work in the area of DNA and genes and uses the database it receives from the government for this purpose. The citizens were not informed of this and once this came to be known there was privacy uproar. Many citizens have withdrawn their DNA samples and some have even moved to court. DeCode Genetics however is still carrying out its research. Profit (at the expense of unassuming citizens) is the primary motive of the government and DeCode Genetics. As the article states “it was meant to give Iceland a global lead in medical research and create one of the world's most powerful drug companies.” Robin McKie, "Icelandic DNA Project Hit by Privacy Storm," \textit{The Observer} May 16 2004. From \url{http://www.guardian.co.uk/science/2004/may/16/genetics.research} (accessed on August 29, 2009).
surprisingly, when given a choice many people (in the U.S.) ostensibly choose to be surveilled, because this makes them feel safe while others want to display their trustworthiness.\(^{329}\) Anthony Giddens appropriately refers to our societies as “risk societies”, which means that we are “increasingly preoccupied with the future (and also with safety), in the form of risk.”\(^{330}\) We no longer know whom to trust and are fearful as a result. In the age of globalization, such traditional networks of trust as family, neighborhoods, and community are less effective in gauging risk by identifying individuals/groups that deviate from the norm. So, that role has been taken over by technologies that calculate risk (such as data profiling systems linked to integrated databases of personal information).\(^{331}\) Jeffrey Rosen argues:

The demand for these ineffective and invasive laws and technologies is made even worse by the fact that the public tends to conceive of risks as an all-or-nothing affair. Many people embrace ... a “zero risk” mentality, naively believing that it is possible to eliminate risks that can never entirely be eliminated. This only increases the demand for showy safety rituals that are designed more to commemorate the last dramatic threat than to anticipate the next one.\(^{332}\)

The above statement indicates that the trade-off between security and privacy is neither a logical nor a useful one. There is ample evidence that corroborates this view. There are said to be approximately 4.2 million CCTV cameras in the UK alone, one camera for every 14 people. It is


\(^{331}\) David Lyon argues that “surveillance all too often classifies, divides, and excludes.” For instance, risk profiling (that has become a routine procedure) operates on this logic of classifying and excluding people. In the United States, as of March 2009, there are one million names on the no-fly list also known as the “terror watch list.” This is not because these million people are terrorists or potential terrorists but due to the risk they pose, based on arbitrary indicators such as religious or ethnic affiliation, appearance, profession or some “suspicious” activity in their past. It is well documented that this results in unfair treatment that denies them equality, for most likely no fault of theirs. See [http://www.usatoday.com/news/washington/2009-03-10-watchlist_N.htm](http://www.usatoday.com/news/washington/2009-03-10-watchlist_N.htm). Peter Eisler writes: “People put on the watch list by intelligence and law enforcement agencies can be blocked from flying, stopped at borders or subjected to other scrutiny. About 95% of the people on the list are foreigners, the FBI says, but it's a source of frequent complaints from U.S. travelers. In the past two years, 51,000 people have filed "redress" requests claiming they were wrongly included on the watch list, according to the Department of Homeland Security. In the vast majority of cases reviewed so far, it has turned out that the petitioners were not actually on the list, with most having been misidentified at airports because their names resembled others on it. There have been 830 redress requests since 2005 where the person was, in fact, confirmed to be on the watch list, and further review by the screening center led to the removal of 150, or 18% of them. Without specific rules for who goes on the list, it's too bloated to be effective.”

estimated that an average person in London is caught on camera 300 times a day. In spite of this, extensive research has shown that CCTV surveillance has been ineffective in actually preventing crime.\textsuperscript{333} In addition, there is substantial evidence pointing to the likelihood of misuse of this technology. Instead of providing security, it has been shown to exploit and target socially and economically vulnerable groups. A Hull University study has shown that:

1 out of 10 women were targeted for voyeuristic reasons by male camera operators, and a Brooklyn police sergeant blew the whistle on several of her colleagues in 1998 for taking pictures of civilian women in the area ... from breast shots to the backside...the study also found a tendency among CCTV operators to focus on people whose appearance or activities marked them as being “out of place.” This includes people loitering outside of shops, or homeless people panhandling. It is also used to spy on activist groups engaged in legal forms of dissent or discussion.\textsuperscript{334}

Lucia Zedner accurately describes the futility of the new security agenda aided by technologies that claim to keep us safe:

Techniques of crime control have become curiously disassociated from crime itself. The pursuit of ‘security’ (and its fashionable analogues, social order, personal and community safety) has become an end in itself whose success or failure is gauged by quite other criteria than crime rates. Indeed, the promise of protection, of freedom from anxiety and insecurity are ends whose measurement may have little rational relationship to actual risk. The irony, of course, is that the pursuit of security itself generates insecurity by littering the world with visible reminders of risk (for example the CCTV camera). And, more ironically still, it could be said that [the actual] reduction of risk acts in the longer term against the interests of those who invest political and financial capital in its pursuit.\textsuperscript{335}

\textsuperscript{333} Many of these studies have been conducted by the UK government itself. Some studies even found that improved street lighting was more effective than CCTV in reducing street crime. The links to the various studies citing the ineffectiveness of CCTV surveillance can be found at \url{http://www.no-cctv.org.uk/caseagainst/reports.asp#}


One of the major issues with video surveillance is that the “observers” i.e. police officers and private security guards tend operate with little public or legislative oversight. The question of who owns the tapes and who has access to them is largely unknown. Since many of the cameras are privately owned such as those in shops, offices etc. the recordings could be sold (to other companies, information brokers or the State) or used without the knowledge and permission of the people involved.

Since 9/11 privacy and security have come to be viewed as competing rights. Bruce Schneier, a prominent security technologist, cites a recent poll where Americans chose security over privacy 51 to 29 percent. He suggests that the whole notion of having to choose between privacy (a social need) and security (a question of survival) sets up a false dichotomy with a predictable outcome: “of course people will choose security over privacy - especially if you scare them first.” The real trade-off is between liberty and control. Schneier argues that for liberty to thrive it is essential to have both security and privacy. Ideally the power of the governors must be kept at a minimum, so that liberty takes precedence over control. The widespread use of the idea of transparency tips the balance between liberty and control in the wrong direction. Mandatory openness in government reduces the relative power disparity between the governors and governed, and this is generally considered a good thing. But mandatory transparency of citizens’ lives increases the relative power of the state over citizens, and for that reason it is viewed as being objectionable.³³⁶

3.) Besides convenience and security there is a fast-growing social dimension to our complicity in surveillance which can be termed as exhibitionism. There are people who are willing and enthusiastic participants in their own surveillance; they are actively “seeking to increase their visibility.” Through the use of webcams, blogs and social-networking sites such as Facebook, MySpace and Twitter many have put their private lives on display on the World Wide Web. In this sense panoptic surveillance is no longer considered a threat; it is actually interpreted as an opportunity to reveal oneself to the public.³³⁷

³³⁷ Another example is the immense popularity of television shows such as Big Brother, where participants live in a house for several months under the permanent scrutiny of cameras. Similar kinds of “public display of private life” are rife on the Internet. “Jennicam” is one of the first examples of this. A young Washington student Jennifer Ringley used a digital camera to upload live images of herself in her one room apartment to the web. Jennicam became an instant hit and numerous others have imitated this model. Of course, part of the attraction for the viewers
Slavoj Zizek, the Slovenian philosopher and cultural critic, explains this trend in these terms:

What we obtain here is the tragic-comic reversal of the Bentham-Orwellian notion of the Panopticon-society in which we are (potentially) “observed always” and have no place to hide from the omnipresent gaze of Power: today, anxiety seems to rise from the prospect of NOT being exposed to the Other’s gaze all the time, so the subject needs the camera’s gaze as a kind of ontological guarantee of his/her being.\(^3^3^8\)

While Zizek implies that there is a pathological quality associated with exhibitionism, others such as Hille Koskela\(^3^3^9\) ponder whether it possible to construe it as something positive. Could it in any way be an emancipatory form of cultural/political behavior? The claim here is that some forms of exhibitionism can be viewed as a form of resistance prompted by the increasing pervasiveness of control.\(^3^4^0\) We have not just internalized the gaze but have surrendered ourselves to it, embracing it and molding ourselves in ways that enable us to benefit from it. The utilitarian aspect of exhibitionism is that many use it to their advantage, to find employment, a life partner or simply to get noticed. This kind of exhibitionism can be interpreted as empowering because it reaffirms subjectivity. As Koskela points out, “these deliberately produced images contest many is the possibility of encountering nudity, but it is not just that, it is also the attraction of being able to watch a complete stranger and her actions in minute detail. When asked why she was giving up her privacy in this way Ringley answered: “I don’t feel like I’m giving up my privacy and it doesn’t affect me that people can see me at all times-I’m still alone in my room no matter what.” Thus in the exhibitionist this extreme form of transparency instills a sense of self-worth and for the voyeur it is a form of entertainment. The diminishing of private space has reconfigured the notion of public space as well. We are more focused on personalities rather than policies. A display of authenticity and transparency is expected from public figures. In order to succeed politically these qualities are often manufactured, thus defeating their purpose.

\(^3^3^8\) Slavoj Zizek, "Big Brother, or, the Triumph of the Gaze over the Eye," in *Ctrl [Space]: Rhetorics of Surveillance from Bentham to Big Brother*, ed. Thomas Y. Levin, Ursula Frohne, and Peter Weibel (Boston: MIT Press, 2002), 225.

\(^3^3^9\) Koskela presents a value-neutral definition to the term exhibitionism. She writes: “The choice to present ones private life publicly can be understood as a form of exhibitionism. In most cultures it is considered ‘normal’ that you do obscuring gestures in order to protect your private life. You close the curtains when it’s dark outside and light inside. You don’t appear publicly if naked or in underwear. You don’t allow anyone to see your sex life, unless you want to make pornography. In this respect it is a radical act to install a camera that shows your private life to an unknown audience.” Hille Koskela, "Webcams, Tv Shows and Mobile Phones: Empowering Exhibitionism," *Surveillance and Society* 2, no. 2/3 (2004): 206.

\(^3^4^0\) I elaborate on this point in the concluding chapter by describing the specific social movements, such as the Surveillance Camera Players, that oppose surveillance based on this principle of exhibitionism, in an attempt to reverse the direction of the gaze.
of the conventional ways of thinking about how visibility and transparency connote with power and control. To be (more) seen is not always to be less powerful.”

David Lyon attributes this type of exhibitionism to our love of looking, or “scopophilia.” He explains why people enjoy watching and being watched:

If the pre-modern concern was how a body should live, and modernity was dominated by the question of how a body is known (which, of course, lies behind surveillance in many of its forms), late- or postmodern culture shifts the question to how the body looks. There is an apparent shift from the analytic to the aesthetic.

On a similar note, Peter Weibel uncovers an underlying “pleasure principle” associated with our exhibitionist/voyeuristic behavior. He argues that what was once considered illegitimate, i.e., the desire to see and/or be seen, has now been transformed into legitimate pleasures, in the name of surveillance for security purposes and its opposite, i.e., reversing the gaze or submitting oneself to the gaze in order to counter its controlling effects.

These psychological dynamics of our postmodern culture also explain why surveillance, in terms of seeing and being seen, is permitted “as a viable mode of social ordering, management, and control.” As we have seen, the culture of watching and being watched is further intensified by the new technologies of vision that feed this tendency.

In all three instances (dataveillance, political surveillance and exhibitionism) privacy is being traded for utility. This is the same autonomy-utility dialectic (from Bentham’s time) playing itself out today, except that the notion of utility has been expanded. We are willing to risk giving up a portion of our privacy and even some liberty for the sake of practices that seem to make our lives easier, safer and more pleasurable. “The right to be let alone” as it was defined

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341 Koskela, "Webcams, TV Shows and Mobile Phones: Empowering Exhibitionism," 199.
343 Ibid., 49.
by Supreme Court Judge Louis Brandeis in 1890 is being eroded by the very same factor that threatened it in his day, namely, technology. This is not a new trend, but the advances that have been made in invasive technology have intensified the erosion of privacy.

The futurologist David Brin in his influential book *The Transparent Society* argues that with the rise of new, invasive surveillance technologies privacy will soon be an obsolete concept. What is unique about his argument is that he is comfortable with the demise of privacy in favor of a “transparent society.” His idea of a transparent society is a radical extension of the notion of democratization of surveillance, where each and every person, ranging from the ordinary citizen to the police officer or some other government official, will have equal access to all information.\(^{344}\) Thus surveillance is countered with surveillance of equal and opposite force. According to Brin, we are at a point where technologies of surveillance have proliferated to such an extent that the traditional notion of privacy has been reduced to a mere illusion. Brin contends that “actual” privacy (which he defines as protection of personal information and private data in the form of encryptions and data protection laws) can exist only in a free society, and according to him this kind of freedom can only be achieved through radical transparency.

Brin’s argument correctly identifies the steady erosion of privacy. However, his proposed solution (of creating a transparent society) would be as hard to achieve as privacy protection is today. Besides, how many of us would willingly opt for the idea of a transparent, surveillance society? The importance of privacy cannot be dismissed. The reason this is so is nicely summed up in the following statement:

Privacy…is not merely an individual right but a positive social good, for it is the cradle from which can grow the resistance, creativity and innovation essential for the renewal of a society. That it necessarily can also foster rebellion, deviancy and crime does not negate its positive potential; this is the price we pay for diversities

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of thought, varieties of practices, and differences of views. Without privacy, the coercive force of hegemonic power to control not only behavior but the innermost thoughts of citizens becomes absolute. Only when the essential contributions of privacy to a healthy society are understood can we properly assess the balance between the social needs for surveillance and the rights of citizens for privacy in their lives. Privacy means more than just “going about our business undisturbed”... It means the *presumption of freedom* from having our affairs overlooked by others, absent compelling reasons to the contrary; it means *having access to data* that has been collected on us by interested parties; it means *having control over* how data about our private lives is used and by whom; it means the *right to establish boundaries between public and private spaces* that are lawfully enforced and respected by everyone, including functionaries at every level of government, from town councils to national agencies, and at every level of corporate activity, from local stores to transnational databases.  

The findings of research conducted by the Electronic Privacy Information Center (EPIC) show that “public opinion polls consistently find strong support among Americans for privacy rights in law to protect their personal information from government and commercial entities.” They list a comprehensive set of several polls concerning privacy, conducted in the US between 2001 and 2008. The results of these polls show that people consistently value privacy and in most cases are fiercely protective of their rights. Similar results have been recorded by polls

345 Hayes, "Waking up to the Surveillance Society," 314.
346 See [http://epic.org/privacy/survey/](http://epic.org/privacy/survey/)
347 "A UPI-Zogby International poll conducted on April 13-16, 2007 asked 5,932 U.S. residents whether the U.S. government should be allowed to suspend privacy laws to share terror information. Slightly more than half (53%) said they are against the government having the ability to temporarily suspend federal privacy laws to enable agencies to better share counter-terrorism information, including the personal data of American citizens. 56% said they have an unfavorable opinion of the Transportation Security Administration, which oversees airport screening and security.
In a telephone poll conducted on January 5-8, 2006 by the Washington Post and ABC News,, 1,001 adults were asked, among other things, about their views on privacy rights and government surveillance measures. 64% believed that federal agencies were intruding on Americans' privacy rights in investigating terrorism. 46% believed that those intrusions were not justified. 44% were worried that the Bush administration would go too far in compromising constitutional rights in order to investigate terrorism. 32% placed a higher priority on the federal government respecting personal privacy than investigating possible terrorist threats, up 11% from 2003.
A Harris Poll designed by Privacy & American Business and sponsored by Microsoft in June 2004 surveyed 2,136 adults online and found that: 35% of Americans had "very high privacy concern."Two-thirds of Americans have taken various steps to protect their privacy, including deciding not to shop at a store or requesting that a company remove personal information from a database.87% indicated that they had asked a company to remove their information from a marketing database. 60% decided not to patronize a store because of doubts about the company's privacy protections. 65% had declined to register at an e-commerce site because of privacy concerns. 15% had requested a company to reveal what personal information it held on consumers. 7% had filed a complaint regarding use of personal information.” The comprehensive list of polls can be found at [http://epic.org/privacy/survey/](http://epic.org/privacy/survey/).
conducted in democracies across the world. But, this is not reflected in the way most people act, so, there is a contradiction between the how people behave and what they say they believe.

I argue that we are caught in a tension between autonomy and utility. We naively believe that we can keep our privacy and liberty, in addition to deriving the benefits from transparency. However, as we have seen, the kind of transparency that is achieved when the motivation is utility can be in tension, if not contradiction, with the principles of autonomy; and that tension is accentuated by new technologies.

Transparency as Publicity

From as far back as Bentham’s time, transparency understood as surveillance has been associated predominantly with utility while transparency understood as publicity has been allied with autonomy. However, I contend that the line between surveillance and publicity is becoming increasingly blurred. The concept of publicity is now more an extension of the idea of surveillance, operating on the common principle of transparency. In this section, I make a case for these claims.

Publicity in many democracies has been instituted formally in such a way that everyone has the “right to know.” The hope is that actions based on complete information will enable us to act in ways that will enrich freedom and autonomy. There is little doubt that freedom of information legislation (instituted in democracies across the globe) has contributed to increasing accountability and legitimacy in the workings of both public and private institutions. However, a problem arises when the notion of publicity becomes synonymous with the idea of transparency,

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348 See Global Studies conducted by Privacy International at [http://www.privacyinternational.org](http://www.privacyinternational.org)
349 The numbers also show that the only issue which trumps privacy concerns is terrorism. As Bruce Schneier has pointed out that the public have been misled (by governments and the security industry) that there needs to be a trade-off between privacy and security. This partly explains why we believe in protecting our privacy, yet are not ready to act when our actual civil liberties are at stake.
as is increasingly the case today. The following discussion takes up certain pathologies that have emerged in the process of pursuing this drive to make everything transparent.\textsuperscript{350}

The idea of transparency is almost entirely predicated on the concept of watching. If the fascination in being looked at is attributed to exhibitionism, reciprocally, the fascination with looking can be attributed to a certain kind of voyeurism. The idea of watching has become an accepted one and is actively promoted by the mass media- one of the primary vehicles of publicity. Norwegian sociologist Thomas Mathiesen refers to us as the “viewer society.”\textsuperscript{351} In \textit{Discipline and Punish}, Foucault argued that we have moved on from the idea of public executions and such mass spectacles. But Mathiesen maintains that a form of mass viewing by the many still exists and is made possible primarily by such mass media as television. He coins the term “synopticism”, to describe this phenomenon of where \textit{the many} watching \textit{the few}, which is a reversal of the panoptic model. According to Mathiesen both panopticism and synopticism co-exist today in society. Both work on the principle of transparency. While panopticism is understood as surveillance and is considered disempowering to the public, synopticism is

\textsuperscript{350} I argue that there is a subtle, yet significant difference in meaning between the ideas of transparency and publicity. The difference lies in the degree of visibility afforded in each case. As opposed to transparency, the original idea of publicity did not entail complete visibility (in fact, Kant’s version of publicity leaves ample space for secrets, such as state secrets for instance, as long as they are justifiable). Our urge to make things transparent, causes us to be dependent on technologies that can purportedly make this happen and vice versa, i.e., our increasing dependence on technologies of visibility feed our desire for transparency. Transparency of government can sometimes diminish its effectiveness, just as transparency of citizens reduces their power. Sissela Bok notes that a certain amount of secrecy protects necessary administrative deliberation and deters bad public policy that could arise from the glare of transparency. Juries, peace negotiations, constitution writing, are few examples where closed-door deliberations are more appropriate than public ones as the “quality of deliberation improves if the debate takes place behind closed doors.” Similarly, Simone Chambers argues that private deliberations need not be opposed to public interest. She makes a distinction between the Socratic and democratic elements of public reason. The former is more rational as it keeps the public interest in mind while deliberation takes place behind closed doors and is free from public pressure. The latter could deter the best possible outcome as it could lead to posturing and pandering by politicians under the constant scrutiny of the public (who themselves may not be fully aware of the implications of their choice).

\textsuperscript{351} Thomas Mathiesen, "The Viewer Society: Michel Foucault's 'Panopticon' Revisited," \textit{Theoretical Criminology} 1, no. 2 (1997).
associated with the notion of reversing the gaze and is thought to be empowering. However, as Mathiesen argues, eventually the two are simply different forms of surveillance.

There are three important issues at stake here: Do the new technologies (that promise to deliver transparency) adhere to the conventional principles of publicity? Has increased access to information improved the quality of public life? Are the many empowered by their ability to observe and monitor others? I seek answer these questions, using the Internet and the global mass media as examples. In the process, I attempt to establish that the idea of publicity today is for the most part synonymous with the idea of synopticism.

Habermas, following the Kantian tradition, understands publicity as rational-critical discourse. The Internet potentially meets all the basic requirements of Habermas’ normative account of a democratic public sphere (where the many can watch the many) as it is a universal, non-hierarchical mode of communication offering universal access, un-coerced communication, participation outside of political intuitions and public opinion generated through discussion. These norms resemble the “ideal speech situation” except that speech itself is absent. The absence of face to face interaction and dialogue undermines what is represented by the idea of publicity, i.e., rational-critical discourse.

The Harvard political scientist Robert Putnam has noted the decline of civic engagement in American society and proposed that television is partly to blame for this. But now the Internet is a new suspect for the erosion of the public sphere, since people are spending more time on the Internet and less time engaged actively in their communities and talking to each other.\textsuperscript{352}

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\textsuperscript{352} A UCLA Internet study conducted between 2000-2003 concluded that the Internet has become America’s most important source of information. It shows that 72.3 percent of Americans are now using the Internet. Of these more than 60\% have an Internet connection at home. Internet users spend over 11.1 hours a week online and this number could be increasing, since the more years people have been using the Internet, the more hours they spend online. From: \url{http://www.universityofcalifornia.edu/news/article/5164} (accessed on September 7, 2009).
Though the Internet is not the ideal, democratic, public sphere it was once thought to be, it has made significant contributions to raising awareness about several important (global and local) issues. It enables us to post and access alternative sources of news; this is especially significant in countries where the media are controlled by the state and access to non-partisan news sources is scarce. It has been the starting point of many social and political movements. Ultimately the fact remains that no technology can replace the offline, hands-on action required to aggregate and represent interests that is essential for social and political movements to succeed.

Thomas Keenan illustrates the problem with a quotation from Marshall McLuhan: “The price of eternal vigilance is indifference.” With the global media networks, technology and human rights monitors, the world is growing increasingly transparent. However, Keenan questions the value of this development on the grounds that it did not help prevent a Vukovar, Omarska or Sebrenica. He quotes Cardinal Lustiger, the Archbishop of Paris, as saying, “here there are no secrets. There are journalists here, from here pictures are transmitted, there are satellite communications, all of this is known…nonetheless it all continues to happen.” This “lack of action proceeds … from the fact that the mediated images of the world are mere representations that lend an air of unreality to the things they represent... media watchers lose touch with reality ... they stand passively by or engage in self-serving forms of ineffective action.” Keenan’s argument affirms the claim that a transparent society is one comprised of

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353 The International Campaign to Ban Landmines owes its success in large part to Internet activism. The Internet helped the cause gain visibility and was used to share information about the urgency of the need to ban landmines and the effect it has on people’s lives. The Internet helped garner support and create coalitions across boundaries with speed and in a cost-effective manner. The International Mine Ban treaty was signed on March 1, 1999.


355 Ibid.
watchers, and in such a society political action and civic engagement are often adversely affected.

The above example also illustrates that there is no assured connection between the quantity of information available and the practical/moral use of this information by those who obtain it. Information is only one part of the idea of publicity; the other involves reflection and it is the combination of the two that fosters autonomy. As Keenan puts it, “what is lost …is nothing less than the Enlightenment, and with it the discovery of the public sphere as the site where knowledge and action are articulated.”

The technological promise of transparency cannot substitute for a communicative public sphere where “the experience of the human subject and its self-present reflection (deliberation, reason and judgment)” can translate into meaningful action.

Jodi Dean in her book Publicity’s Secret argues that the concept of publicity today is driven by a compulsion to uncover “the secret”, where the secret is an idea rather than a particular piece of information. The disclosure of information has been fetishized to the extent that it has come to be perceived as an end in itself. Democracy has degenerated into an obsession with access to information and political action is deferred until such time as the “secret” is revealed. But all too often the final revelation never comes, and politics is taken up with a pursuit

357 On the one hand, Keenan argues that cameras and new media such as the Internet with its ability to convey images of events instantly as they happen have spread indifference. On the other hand, he says the media images of certain crises have travelled through the globe shaming governments into immediate action. He gives the example of Somalia in 1992, when the US troops landed they were surrounded by starving children, the powerful images from this scene prompted humanitarian relief operations. However Keenan maintains that this does not serve the purpose of publicity. Publicity by definition means rational, critical, thinking, it cannot be an instantaneous decision based on “emotion.” As Jeffrey Rosen points out “impulsiveness…and absence of critical spirit are the special characteristic of crowds, they are moved by images and emotions rather than arguments.” Decisions based on publicity need to be well thought out, images alone are not always self explanatory. Also, transparency can be manipulated to show certain places/images and ignore others; hence we need to be aware of selection biases.
358 Dean, Publicity's Secret, 42.
of the elusive secret." And, democracy ends up depending on this "dynamic of suspicion and surveillance." Dean writes:

A fundamental compulsion to know generates suspicions that displace that element of belief in the belief of the other which is necessary to sustain social institutions. When everyone is supposed to know, when everyone has a right to know, no one has to or should believe. Informed citizens find out for themselves.

I suggest that this circular interplay of publicity and secrets has been made possible largely by technological advancements. Everyone is capable of exercising his/her "right to know" because technologies for instantly accessing, storing and retrieving information exist. Thus our main sources of information and vehicles of transparency, such as television, the Internet, and global mass media in general, have ironically strengthened our "culture of suspicion." The British Philosopher Onora O’Neill, in her extensive research on trust, has concluded that the enthusiasm for transparency has not served its function to "build and restore trust" in public institutions. She suggests that one of the reasons for this is that new technologies and techniques, i.e., the medium through which information is conveyed and transparency is sought, have generated more obfuscation than clarity. An important facet of face to face interactions (as opposed to technologically mediated communication) is that it builds

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359 Ibid.
360 Ibid., 46.
361 Ibid., 11.
362 A particularly relevant, contemporary example would be the controversy surrounding the US President Barrack Obama’s birth records. Despite the evidence, i.e., his birth certificate proving he was born in the United States, many are still skeptical of this information. Jodi Dean in her blog Icite explains: “The ‘evidence’ of the certificate of live birth, the birth announcement in the papers, doesn't register. It doesn't appear as or seem real. And it doesn't appear as Real because there is no functioning symbolic order that can legitimize or guarantee it.” The problem as one commentator points out is that everything symbolic can be forged, as the technology to do so exists (there is even a Kenyan birth certificate generator circulating around the internet). Dean continues: “The problem of the decline of the symbolic is the loss of the Real. Any [original, authentic] certificate that is on the internet or reprinted in print media is of course a copy. To say that one has seen the certificate is to say that one has seen a copy. But what can make the copy Real, particularly if one disrupts all the mechanisms of verification. …there is NO piece of paper or certificate that could assuage the birthers…they lack the basic dimension of trust necessary for a statement to qualify as valid.” From: http://jdeanicite.typepad.com/i_cite/2009/07/the-real-birth-certificate.html (accessed on September 12, 2009).
trust. For instance, communication via the Internet permits individuals to define and change their identities at will; this raises the question of whether such a medium can ever foster trust.

Today, we are confronted with what is appropriately characterized as an “obesity of information”\(^{364}\), meaning that there is more information circulating than anyone can possibly read or process. The excess is also a result of accumulation and repetition of information (such as several news channels covering the same stories or several websites containing the same information). In such a situation, the choice regarding what information gets highlighted and what remains in the background is controlled by the media elite.

Therefore the effect of the synopticon is such that it makes us *feel* more empowered than we actually are. The synopticon is comparable to the panopticon in the sense that both are techniques of power; however, the former works on the basis of seduction rather than coercion. In the process of informing and entertaining us, the mass media sell us products and ideas, and they tell us what to think. As Mathiesen observes:

> Synopticism through the modern mass media first of all directs and controls or disciplines our consciousness... making us fit into the requirements of modernity. \(^{365}\)

So, even though the power *to* surveil is being dispersed among all of us, we are being indirectly controlled by the technologies that enable us to do so. For this reason, it is becoming increasingly difficult to distinguish between technologies of publicity and technologies of surveillance. \(^{366}\)

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365 Mathiesen, "The Viewer Society: Michel Foucault’s ‘Panopticon’ Revisited,” 230.
366 Media such as the Internet and television that provide us with information also collect information about us. For instance, companies such as Nielsen, TIVO and Snapstream Media are the three big names in the US known for tracking television viewership. They collect information about the viewer’s choice of programme, demographics etc and are able to do so as the equipment allows them to collect this information. Every set-top box, TIVO etc is registered to a particular user and can convey this information. Collecting user information is much easier and more extensive on the Internet. We are all uniquely identifiable by our IP (Internet Protocol) addresses. Thus our internet provider can easily check our internet usage, the particular websites visited by us etc. Thomas Mathiesen alludes to this when he says: “George Orwell described panopticism and synopticism in their ultimate forms as completely
the idea of publicity as envisioned by the Kant-Habermas tradition appears to be becoming a victim of the democratization of surveillance.

**Conclusion**

Our fascination with technology has helped to make the problems posed by the modern interest in publicity and surveillance more acute. We are so enamored with technological innovation that we can hardly even imagine ourselves refraining from the use of whatever new technologies are created. And we keep investing more and more resources all the time in the development of new technologies. So the idea of controlling our destiny becomes, on that score, at least, highly implausible. By the French philosopher Jean Baudrillard’s assessment “every step in the technological process, every advance in information and communications, brings us closer to that inescapable transparency.”

As we have observed in the previous chapters, the idea of transparency has a double meaning in the literature of moral and political philosophy, where it has been understood as both surveillance and publicity. But, today the idea of publicity is becoming increasingly indistinguishable from the notion of surveillance. This is mainly due to the fact that the use of surveillance technologies is becoming much more pervasive in the population at large. The same technologies of vision which enable surveillance over us can also be used by us to observe and surveil others.

Thus, in the spirit of Rousseau and Bentham, we continue to believe that the solution to such human foibles as artifice, secrecy and opacity is to invent techniques and technologies that can prevent, expose and correct digressions. At the same time, we are learning things about the

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motivation of ordinary people that were not part of this discussion before. Who would have thought that so many people want to watch other people? Or that they want to be watched themselves?

The underlying theme of this chapter and the dissertation as whole is not that we have irrevocably been taken over by the all-seeing eyes of various technologies. Technologies of vision are not all insidious all the time. All surveillance is not pointless, nor is all communicative action and publicity destroyed by technology. However, if we overvalue transparency (as we have been doing), this causes us to be overly reliant on the technologies of vision at the expense of values in which we claim to believe, such as freedom, privacy, equality, liberty and even openness itself.

In the concluding chapter I will attempt to offer a possible view of how we can understand and respond to the complexity that now surrounds the idea of transparency in politics.
V. The Logic of Transparency in the Politics of Modernity: Understanding and Resolving the Paradox

*It is part of the world that we cannot bear either the illusion of the world or pure appearance. We would be no better at coping with radical truth and transparency, if these existed.*

- Jean Baudrillard

**Introduction**

The mission of this chapter is twofold: 1.) to connect our current situation with the historical perspective developed in the previous chapters; and 2.) to make a set of normative claims regarding the idea of transparency, which I have reserved for this section of the dissertation.

Thus far in this dissertation I have discussed the various views of the meaning of transparency put forward by Rousseau, Kant, Bentham, Foucault and Habermas. It is evident that for each of these thinkers the word transparency takes on a somewhat different meaning with significantly different political implications. It is also clear that the origins of this variation can be traced all the way back to a specific historical moment, namely the appearance of modern beliefs and practices. Therefore it is not unreasonable for us today to be conflicted about the purpose and value of transparency.

I maintain that the different and even contradictory impulses embedded within the notion of transparency are partly a symptom of a particular set of political conditions that arose during the Enlightenment. As noted earlier, the idea of transparency as seamless, unobstructed vision was one of the foremost ideals of the Enlightenment, promising an open society, politics grounded in reason, and freedom from myth. I have discussed the way in which this movement,

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368 Ibid., 3.
aptly characterized as dialectical, actually ends up fostering emancipation on the one hand and control or even repression on the other.

In theory, transparency means making power accountable through the achievement of individual autonomy. However, in practice things have played out very differently. In the present situation, transparency becomes a possibility only in a purely technical sense. Aided by new ocular technologies, transparency in the name of openness and public access to information ironically can also result in stricter controls and surveillance of individuals in public, semi-public and even private spaces.

I argue that part of the complexity the notion of transparency has come to have arises in the very nature of democracy. The problem can be put this way: in a democracy, how is the idea of transparency as publicity (associated with civil liberties) to be reconciled with the idea of transparency as surveillance (associated with administrative power/control)? There are two parts to my answer: 1.) There is an attraction to both these ideas depending on which side of the power equation one inhabits, since the power of transparency can lie in two quite distinct sets of hands, i.e., citizens and the state. 2.) Surveillance and publicity are able to coexist because the demos are willing participants in this dialectic.

Though to some extent these concerns can be traced all the way back to the Enlightenment era, they are influenced in our time by certain new aspects which need to be acknowledged and addressed. New technologies (such as the Internet) have revolutionized the way we think about both publicity and surveillance with regard to civil liberties. In this chapter I examine this development in some detail.

My claim is that when the concern with transparency is channeled through the various new technologies available to us today it moves closer to the idea of surveillance; the
consequence is that the notion of transparency as an ethic takes a back seat. This has been true ever since Bentham’s time, but I argue that the utilitarian benefits of transparency have proliferated in more ways than even Bentham could have imagined.\textsuperscript{369} This has made it even harder for us to resist the drive for even more exposure of people’s lives.

There are people who put a happy face on all this, arguing that the use of these new technologies expands the possibilities for democracy. But I am skeptical about this claim. It is not that the optimists are entirely wrong, but rather, that they present an overly simple picture. At times these people seem almost defiantly oblivious to the less promising (and even dangerous) possibilities that are present in our current situation. My critique is aimed at the radicalization of the alliance between transparency and technology/technical reason that has occurred in recent times.

As Terry Eagleton rightly observes, it would be pointless to be “laboring away in libraries of all sizes absorbing great swathes of indigestible theory if the system is simply impregnable.” We would not have got this far with theory if we did not think a “full blooded political transformation” was possible in the first place.\textsuperscript{370} I lay out the conditions required for positive change to take place. The first step would be to identify and maintain a clear distinction between the emancipatory and the repressive potentials of various technologies. The next step would be to interrogate particular practices of transparency with the aim of subjecting them to rigorous ethical standards. Methodologically I suggest this could be done fruitfully by using a combination of the methods of Foucault and Habermas. But for this to happen we would need to experience nothing less than an overhaul of our democratic culture, so it would not be an easy feat.

\textsuperscript{369} To be clear, I do not object to the idea of utility per se, except, when it gets in the way of autonomy.
\textsuperscript{370} Terry Eagleton, \textit{The Illusions of Postmodernism} (Oxford: Blackwell, 1996), 49.
I make it clear that transparency’s two avatars, publicity and surveillance (in a qualified sense), are both indispensable aspects of democratic politics. However, I am less convinced about the value of using the word “transparency”, which has come to imply an abstract and radicalized form of vision. I conclude my argument with a somewhat pessimistic thought: the quest for transparency in politics does not make reality any more transparent; in fact, it only contributes to the interplay between what is visible and what remains hidden. I sum up the trouble I see with transparency by calling upon ideas drawn from the writings of Hannah Arendt.

**Bridging the Gap: The Old and New Politics of Transparency**

The ideal of transparency in politics originally derives from an ethical impulse. This is clear from the writings of Rousseau and Kant. Kantian publicity is attached to the morality of political action. The moral justification for transparent communication is that when a person (say, a politician) uses deception and falls short of disclosing his/her intentions, s/he fails to treat the other person (in this case, the public) with respect and therefore s/he fails to act as a moral being. By intentionally misleading the other person and failing to treat him/her as an end he/she is undermining that person’s rational capacity.\(^{371}\) Kant’s theory of publicity is an *ethic*, therefore, and transparency is a *metaphor*, one that actively promotes a certain kind of conduct, especially in public life.

The Enlightenment was a product of several different kinds of views. However the unifying theme was that the natural order could be grasped and made transparent to the mind, through the use of human reason. But as an extension of this kind of thinking, man himself (sic) became an object of observation and scientific study. The advance of knowledge was thought to

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\(^{371}\) As Kant’s theory of humanity states “act so that you use humanity, as much in your own person as in the person of every other, always at the same time as end and never merely as means.” Kant, *Groundwork for the Metaphysics of Morals*, 429.
be limitless and “perfect intellectual transparency, which appeared to…be possessed both by the primary assumptions of these sciences and by their demonstrations, constituted [the] ideal of knowledge.”\textsuperscript{372} The problem emerges when the desire for transparency is extended beyond the intellectual realm. The pursuit of transparency, combined with the Enlightenment’s scientific model of “knowing by seeing”, gave rise to techniques and technologies that promised deeper, more complete vision. Thus an ocularcentric notion of reason turned the idea of transparency into an epistemological stance, built on the premise that implied deeper visibility meant greater knowledge, which in turn placed greater power in the hands of those who possessed the vision enhancing technologies.

Bentham’s conception of the Panopticon is the great symbol of this way of thinking and in hindsight its invention has proven to be a pivotal moment in the history of the politics of transparency. Bentham’s utilitarian twist turns the idea of transparency into two competing political initiatives- publicity (which is a way of making power transparent by enabling citizens to keep a check on public officials) and the Panopticon (an exercise of power that allows particular individuals/groups of the public to be monitored by the state).\textsuperscript{373} So the concept came to be associated with a movement of power in two opposite directions. Publicity increased citizens’ power over the state, but at the same time surveillance increased the state’s power over citizens. In this way transparency acquired a dual identity in the dialectic between popular sovereignty and state power, promising emancipation, on the one hand, and control, on the other. This is the source of the problem.

\textsuperscript{372} Spragens, \textit{The Irony of Liberal Reason}, 31. Owing to the superstitions and obfuscations that prevailed during medieval times, there was a general distrust for words. The modern scientific method instead relied on the world of observation, mathematics and geometry which provided “precision, clarity and certainty.”

\textsuperscript{373} On the one hand, the modern nation state since its inception has been associated with increasing control over its physical territory and movement of its people. On the other hand with the rise of democratic forms of government there was a shift in sovereignty and control over government information from the state to its citizens.
Bentham’s view profoundly compromises the ethical impulse that informed the original Kantian notion of publicity. Kant’s idea of publicity is largely an ethic meant to promote responsible behavior amongst state officials, as opposed to Bentham’s notion, which is predominantly a tool for creating a smoothly functioning society. The concern here is that under the banner of transparency both ideas, i.e., publicity and panopticism, end up being variants of the logic of surveillance. This quest for transparency understood as an efficient system of management becomes the motive for relying on vision based techniques and technologies that can be used to observe both politicians (through the principle of publicity) and the public (through the concept of the Panopticon).

This tension between these conflicting meanings of transparency is emblematic of a larger ideological struggle within the Enlightenment. On the one hand, liberalism touted reason as a weapon to attack authoritarianism. But through variants of liberalism such as utilitarianism, reason (albeit inadvertently) also became the “justification for political ideals and institutions more authoritarian than anything found in medieval times.”

It must be acknowledged that the utilitarian idea of governance was not one of coercion. In fact most utilitarians believed that a well-informed person would recognize that his/her self-interest coincided with public utility. The socialist and reformer Robert Owen, who was greatly influenced by utilitarian thinking, put the matter this way:

> When these truths are made self-evident, every individual will necessarily endeavor to promote the happiness of every other individual within his sphere of action, because he must clearly and without any doubt, comprehend such conduct to be the essence of self-interest, or the true cause of self-happiness.

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374 In the end, though Kant’s view of publicity was meant to promote autonomy, there is considerable ambiguity surrounding the concept in Kant’s own writings. Some of the problems with the notion of publicity today, such as the emphasis on vision, the tendency to universalize the need for transparency and the notion of objectivity, can be traced back to Kant’s broader philosophy.

However, the underlying issue with utilitarianism (Bentham’s brand of technocratic utilitarianism in particular) is this: it places great value on systems, techniques and classifications in the belief that the world around us can be rendered transparent and more efficient as a result. This impulse, if left unrestrained, can stifle the humane aspects of reform in favor of social order. The Panopticon is a good example, where under the banner of prison reform a technology of social control is devised.

The principle of transparency, when used to justify the use of techniques and technologies from Bentham’s Panopticon to modern surveillance equipment, privileges social order, and it is based on a desire to detect those who deviate from the “norm.”377 I argue that the emphasis on these kinds of technologies rather naturally draws us in the technocratic, if not totalitarian, direction unless actively resisted. If left unchecked, the modern fascination with transparency could easily culminate in soft totalitarianism- or, in the worst case, even a ‘harder’ form.378 The value of pointing this out, as the historian Michael Eliot Howard puts it, is not that history repeats itself “but events sometimes significantly recur.”379 One thing can lead to another, especially when ideas are allowed to unfold in radical directions.

377 This is not to deny the importance of following established norms. It is essential to uphold certain accepted codes of conduct for the sake of order and civility. However, it is equally important for society to allow the free expression of individual and minority interests.
378 The Holocaust is an example of the horrific dangers of transparency guided by technocratic reason, in a democratic setting. Germany at the time Hitler came into power was a democracy. The Nazi goal of achieving a society comprised solely of the Aryan race (i.e., blonde-haired, blue eyed “uber men.”) was enabled by the medical arguments made possible by new technologies and experiments conducted to measure racial purity. The so-called evidence was used to propagate the idea that other races were inferior. Under the guise of scientific proof citizens were duped into believing the propaganda. Nazi Germany was a transparent society, one where Jews, Gypsies, Blacks, homosexuals and others who did not meet the criteria of racial purity were singled out to be purged from society, leading to the Nazi concentration camps and genocide of horrific proportions.
John Carr sees a connection between biopolitics in Nazi times and dataveillance today. Modern states continue to use bio-politics to classify their citizenry. Dataveillance is also a technology of bio-politics, whereby individuals and groups based on certain demographic criteria are singled out as potential terrorists. As statistics cited in the previous chapter have shown, many a time people are wrongly incriminated as a result of reliance on and trust in these technologies over human communication and understanding.
Admittedly, it is also one of the lessons of our time that public resistance can and does appear. In fact, the normative impulse behind the idea of publicity itself was born out of resistance to abuses of power. The right to information has been consistently opposed by those in power, and for that reason it continues to be a compelling democratic aspiration.\textsuperscript{380} From the 18th century to the present, officials have resisted succumbing to the demand that they act transparently. After all, Bentham did not succeed in getting his Panopticon built. At the same time, prison reform did occur and it appeared to yield little more than the control of bodies (not minds).\textsuperscript{381} So the idea of all pervasive control by the state may seem to be an exaggeration of the dangers we face.

My own view is that this is too lenient a picture of the public’s ability (and willingness) to resist surveillance.\textsuperscript{382} This is especially the case in today’s modern information society. I claim that a particular combination of democratic politics and advanced technologies has given rise to a significantly novel kind of politics of transparency.

Part of the reason that things haven’t worked out quite as the original proponents of the Enlightenment ideal had in mind is the conceptual ambiguity of transparency. The dual identity of transparency arose because of the above mentioned conditions; however, I argue that it continues to exist because of the character democracy has come to assume in recent times. Throughout this dissertation we have encountered the suggestion that transparency understood as

\textsuperscript{380} The power equation almost always favors those who have reason to withhold information. This is particularly relevant in non-democracies where the public have been fighting for their right to information. Recent events in China and Iran have highlighted this issue where access to popular information (via the Internet) is blocked by government. Even in democracies, politicians often find loop-holes to withhold sensitive information from the public. Traditionally there have been areas that have been exempt from this kind of transparency in the name of law and order and national security.

\textsuperscript{381} Even today, it can be argued that surveillance is more intrusive than manipulative. Technologies of surveillance invade our private space by observing us and collecting information about us, but it is unclear exactly how much they actually influence and control our thoughts and behavior.

\textsuperscript{382} Going back to the 18th century, Europe did have population registers for the purposes of policing and conscription. Citizens did have to submit annual tax forms, register birth of children and take part in a census once in 10 years. I do not mean to suggest that these were not required, but it is a testament to the State’s power.
publicity is a democratic impulse, and that transparency understood as surveillance is somehow undemocratic. In other words, the idea of surveillance is in contradiction to the idea of democracy, since it poses a threat to liberty. I argue that this claim is misleading, and that both strands of transparency, i.e., publicity and surveillance, are nurtured by democratic politics.

At its most basic, the meaning of democracy is simply popular rule based on the principle of equality. The idea of publicity fits naturally into the democratic equation, in that it makes state officials accountable for their actions to the public. This takes the form of public debate, accessibility to written records and various other forms of scrutiny. Since knowledge is power, the power equation in a democracy must favor the public. However this does not necessarily guarantee protection of individual rights. It simply means rule by the majority. If this is the case, can we then unambiguously equate a democratic form of government with emancipation and personal liberty, the way people often do now? I maintain that popular rule may or may not be conducive to personal liberty, depending on how it is conceived and implemented. It is important to keep in mind Mill’s cautionary concern: popular rule can all too easily turn into a threat to personal liberty.\textsuperscript{383} Liberals were wary of democracy for much of their history because they feared it could all too easily become oppressive. It is also good to keep in mind that Nietzsche equates democracy\textsuperscript{384} with a desire for comfort and “happiness” that makes people willing to give up personal liberty in order to live comfortable and pleasant

\textsuperscript{383} The relationship between liberalism and democracy is a complicated one. The two are not necessarily connected. A liberal state is one which protects individual rights as opposed to an absolutist regime. A democracy is a form of government where power is vested in the hands of the people/ majority. As history has shown us a liberal regime is not necessarily democratic, it is possible to have a liberal monarchy or aristocracy, where even though political participation by the people is restricted, they can enjoy individual rights and civil liberties.

\textsuperscript{384} For Nietzsche democracy is an expression of what he terms “slave morality.” The principle of equality which formerly existed merely as an ideal in the slaves’ imagination is now the foundation of politics. Under the banner of universal rights, democracy nurtures homogeneity and is adverse to differentiation. This, according to Nietzsche is dangerous as it leads man back to the pre-social or animal condition and is a threat to the preservation of life.
lives.\textsuperscript{385}

The main feature of the democratic ideal is thus majority rule. The other goods that are often read into the democratic vision may or may not be well served by this ideal, and this can all too easily lead to moral ambiguity in the outcomes produced by democratic institutions. Therefore, in my view, the problems we have identified with the notion of transparency are simply a reflection of tensions inherent in democratic politics.\textsuperscript{386}

Prior to the advent of the modern information state, in a democracy the power of transparency lay in two distinct set of hands, citizens and the state. From the perspective of citizens, transparency in the handling of the state’s affairs was essential for accountability and legitimacy, and it was associated with the principle of publicity. From the standpoint of the state, transparency facilitated control over the population, which resulted in surveillance. Today, democratic politics has matured, and technologies have advanced. As a result we are witnessing certain changes in mindset with regard to both aspects of transparency. My contention is that this new outlook intensifies the moral ambiguity of democratic politics.

By this I mean the following. We still subscribe to the ethic of publicity when we call for transparency in politics. But in practice our motivations are all too often guided by utilitarian concerns, which lead to surveillance. Where the balance is struck depends on the public’s mood and the prevailing political climate. For example, the mood of the majority today tends to be one

\textsuperscript{385} Nietzsche was prescient to understand that the public only desires comfort and ease. For example, this is evident today in our rampant use of technologies such as credit cards, smart cards etc. Though these technologies collect personal information about us (with little accountability) most of us are willing to accept it for the sake of utility.

\textsuperscript{386} I stand by my critique of democracy in connection with the idea of transparency. However, as Churchill pithily put it: “democracy may be the worst form of government except for all the others that have been tried.” As I have pointed out the democratic ideal has certain flaws; however I also believe that political problems such as those surrounding the notion of transparency can only be resolved through democratic means. Though democracies vary, it needs to be acknowledged that most democracies do allow for creative forms of self-expression and resistance, giving rise to the possibility for self-correction.
of insecurity. So the public is willing to allow surveillance and trade personal privacy and other civil rights for a feeling of security.

I do not believe that we have *completely* lost contact with the ethic that originally informed people's thinking about transparency, so that our lives have been completely taken over by surveillance. There is still plenty of evidence that people believe in the value of transparency as a moral good. For instance, when the Freedom of Information Act is successfully appealed to in the courts, the claim usually is that the public is better off for being able to have access to the information. And for all the surveillance to which we are subject, there is evidence of active resistance.\(^{387}\)

I thus concede that the democratic ideal entails the possibility of resistance. But in practice this possibility can be realized, surely, only if the rule of the demos does not give rise to political dynamics and practices of the sort Mill had in mind when he spoke of the “tyranny of the majority.” And today it is easy to imagine quite intrusive forms of surveillance being actively employed to pursue purposes that are supported by the demos. As I have pointed out in the previous chapter, the available evidence suggests that the majority of the public today are in favor of surveillance. This is even clearer since 9-11 when a sense of insecurity rippled across the globe.

But our willingness to accept surveillance goes even beyond security concerns. Remarkably, we are living in a time where new attitudes have diminished the historic concerns about surveillance. We have reached a stage that is not inappropriately characterized as “post-paranoid surveillance”, where we no longer fear it. Why? Because most of us derive benefits and even feel a sense of empowerment from surveillance rather than feel its disciplinary effects.

\(^{387}\) I elaborate on the specific kinds of resistances in the following section of this chapter.
Of course, surveillance in the more traditional sense continues to exist and has even intensified. However, the change today is that an equal if not greater share of surveillance activity comes from commercial enterprises (dataveillance) seeking to track and promote certain kinds of consumer behavior, as well as the “networking” media that people use to situate themselves within certain social groups. And for the most part we are complicit in this kind of surveillance because it supposedly makes our lives easier and happier. The consequence is that we are well on our way to living the utilitarian “dream of a transparent society,” and the leader of the movement in this direction tends to be the new (allegedly more libertarian!) generation.

**Responding to the Politics of Transparency: Publicity and Surveillance**

In this section I address the implications of the emerging new ethos and consider how we should respond to it. I approach the topic assuming that we have always lacked a clear distinction between the ideas of publicity and surveillance. This is even more obvious now because of the advances in technology we have experienced. The lack of clear ethical guidelines for dealing with such matters is becoming increasingly evident all the time, and in ways that can adversely affect our lives.

*Publicity*

It is widely accepted today, for example, that transparency in government is an important condition for effective democratic control of state action. This kind of reasoning assumes that once information is freely available it will produce a model public which will be engaged in politics and hold officials accountable. However, this is hardly unambiguously the case. More and more it is clear that publicity enhances the quality of democracy and is empowering only if

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388 For instance government surveillance monitors, classifies and controls “criminals”, “terrorists”, and/or other “dissidents.” Surveillance in the workplace and schools ensures appropriate behavior of employees and students. These can all be construed as disciplinary forms of surveillance.
certain conditions are met. The information we receive needs to be relevant and it needs to be accompanied by practices that foster dialogue, participation, and action. But it is becoming increasingly difficult to satisfy these conditions in anything like an adequate way.

No one can dispute that the new technologies available to us (such as the Internet) have enhanced our ability to obtain information, and they have become indispensable for enabling citizens to know what they need to know. But we are being inundated with information, and one has to wonder about the value and credibility of this information. Controlling the quality of information we receive is becoming increasingly difficult given that news is getting more and more decentralized, and on platforms such as the World Wide Web there is little or no oversight of content. In this sea of excess, pertinent information (i.e., resources that are verified and thus reliable for the purposes of making decisions) tends all too easily to get overwhelmed by dross.\[^{389}\]

To deal with this problem, we need to draw a distinction between different kinds of information. For instance, we do need to know whether a certain politician is corrupt, but do we need to know every detail about his/her personal life? I believe not, as this simply feeds voyeuristic urges, propelled by the belief that we have the right to know “everything about everything.” Today more than ever, the right to information needs to be accompanied by journalism that provides deep analysis, coherence and good sense. This requires a shift in focus (of the media’s attention and subsequently our attention) from sensational news to information that is “good” for politics.

\[^{389}\] The word publicity more often than not is used to indicate negative press, exposing the exploits of celebrities and politicians. The media (and subsequently we) are increasingly focused on personalities and their private lives rather than issues that concern Average Jane/Joe. This is not a new phenomenon; however this has become a problem today given the new technologies and the quantity of information of this kind we are receiving as a result.
This implies moving beyond a notion of publicity understood purely as transparency. The difference between transparency and publicity lies in the degree of visibility. The term publicity suggests, I submit, a moderate form of vision, while transparency implies extreme visibility that has come to be associated with power and domination. Today, this distinction is getting blurred.

The popular belief is that technologies such as the Internet have made politics more transparent. If transparency simply means visibility this is clearly valid; it has made public figures, their lives and issues more visible to the public. However, I claim that the “informatization” of society in the name of transparency has increased the potential for surveillance more than it has made politics “transparent” in an ethical sense. The traditional notion of publicity is being co-opted by the media and the new technologies of transparency in order to enable us to see more and acquire more information indiscriminately. Simultaneously, the idea of publicity is moving further away from being understood as dialogue and engagement. In its place we are witnessing a politics built upon suspicion that feeds a pathological urge simply to see and glean more information using technologies that allow us to do so (such as the

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390 Today, it has become relatively easy to oppose vision based politics. However, the history vision and its effects are more complex. For instance, Hegel’s master-slave dialectic was based on a positive form of vision. Kojeve explains that for Hegel vision is redeeming as it brings about mutual recognition leading to universal freedom. Kojeve Alexandre, Introduction to the Reading of Hegel (New York: Basic Books, 1969). However, in the 20th century, as Martin Jay argues, a certain “scopophobia” and “denigration of vision” had set in especially among French philosophers (for e.g. Sartre, Foucault). The Enlightenment’s emphasis on vision and the notion of transparency began to be looked at with suspicion. The Enlightenment movement became increasingly associated with a dominating science ruled by an ocularcentric and hegemonic reason, which many argue led to a loss of autonomy and eventually, paved the way for totalitarianism. For instance, according to Sartre the look of the other denies the subject of his/her freedom, making him/her a ‘thing’ or object in the eyes of the other. Extreme visibility was associated with power and subjection. Jay notes that this position at once over-values and under-values vision. It over-values vision by focusing solely on vision and disregarding other senses (tactile, auditory etc) and other aspects of subjectivity such as “communicative inter-subjectivity.” It undervalues vision as it always viewed suspiciously and denigrated as a form of domination.

391 Randy Kluver defines “Informatization” as “the process whereby information and communication technologies shape cultural and civic discourse. This would include not just computers and the internet, but other related technologies that have as their primary characteristic the transfer of information, including more traditional media technologies, such as film, satellite television, and telecommunications.” From: http://www.acjournal.org/holdings/vol3/iSS3/spec1/kluver.htm (accessed on March 01, 2010).
video cameras, Internet and television). We run, therefore, the risk of turning into a viewer society that actually is less given to direct participation and political action.

I argue that the norm of publicity does not necessitate radical visibility or the use of complex technologies. The solution to our current problems in this domain lies in preventing technical reason (and technologies that result from it) from dominating our understanding of publicity.

In his attempt to rescue Enlightenment values, Habermas takes a step in the right direction. He attempts to move away from a technocratic and ocularch issue of reason to a communicative one, taking a giant step away from one of the main dangers inherent in the idea of transparency. In Aristotelian terms, the communicative aspect of politics is what defines us as human beings. The idea of publicity is meant to strengthen this facet of political life through dialogue and participation. To move in this direction would be to revive the original meaning of publicity understood as face-to-face dialogue and communication.

I agree with Habermas that it is important to recover the ethical impulse behind the idea of publicity. Ethics have an important place of their own; they must not be reduced to principles of utility or replaced by technologies that profess to do the work of ethics. There is real danger in being captivated by slogans such as transparency. What is eclipsed by such terminology are serious norms and values that need to be brought back into focus. Publicity involves four broad democratic themes: accountability, legitimacy, openness and participation. Transparency is

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392 See Chapter IV for a detailed analysis of technology as vehicles of publicity and the effects of this on politics.
393 One of the main issues is that the emphasis on transparency conflates seeing with knowing. Those like Habermas argue that understanding cannot come about solely based on sight and vision based technologies, it requires an inter-subjective communicative process. If we emphasize a combination of moderate vision, dialogue and listening to acquire, process, and disseminate knowledge, in theory we can mitigate some of the problematic aspects of transparency.
394 For example, a surveillance camera does not promote ethical behavior; it simply instills fear.
395 Accountability- Elections alone do not determine accountability. Publicity’s main value lies in overcoming the principle-agent problem i.e. the difficulty faced by the principal in ensuring that agents do what is required of them
simply an appealing word that has failed more often than not to promote the very norms and values it is purported to stand for. So perhaps we do not need the idea of “transparency” at all, and we would be better served by relying on values such as openness, authenticity, emancipation, the right to information, truth, accountability, trust, development and security when used in the appropriate context.\textsuperscript{396}

**Surveillance**

The idea of surveillance is not incompatible with a democratic form of government. At the same time, in democracies power is supposedly vested in the people, which allows the public to actively resist surveillance, when necessary.

I argue that the pessimistic claims advanced by figures such as Foucault and Orwell underestimate the creativity of subjects, who have been shown to have the ability to resist the gaze of power. The key to the success of panoptic power lies in its ability to manipulate the subject’s mind. For this to take place the subject must accept and buy into the performative effects transparency. If the subject resists and refuses to take that set-up seriously, the whole system collapses. Hence, it is not enough for people simply to believe they are being watched at

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rather than what is in the personal interest of the agent. In the realm of democratic politics the government is the agent and citizens the principle. The numerous corruption scandals in the past and present indicate the severity of this problem.

**Legitimacy**- Western constitutional governments based on a tradition of rule by law, accountable through elections, free party competition, representative government, a free press, and various checks and balances on government power – certainly have provisions for secrecy, but increasingly find it difficult to justify the restriction of access to information. Democracy implies a basic right to information about government activities.

**Openness**- Secrecy can lead to bad public policy, for example, excessive the military expenditure during the Cold War was a result of poor intelligence. Openness is a better regulatory framework; it curtails abuse of power and improves the quality of decision-making. However, this does not exclude the need for state secrets for diplomatic and security purposes.

**Participation**- For participation to be meaningful and substantive citizens must have access to information and decision making processes, as implied by the norm of publicity. Similarly, the value of publicity is realized when political actors are able to utilize this information to shape arguments and effect policy outcomes.

\textsuperscript{396} Transparency as an abstract concept is likely to be less effective than the application of openness in particular circumstances. Mark Fenster claims that abstract theories of transparency leaves it open to counter claims such as national interest etc thus placing hurdles in the more genuine claims for openness. The abstract quality of policies of transparency allows for mandates of both disclosure and non-disclosure when those in power exert their authority. Hence a distinction needs to be made between the rhetoric of transparency (the customary nod given to the idea of transparency in most policy documents) versus the careful application of the principles/values it purports upholds.
every moment; they must \textit{care} about it. The panoptic principle can only work, in other words, if people fear being watched. As Slavoj Zizek explains:

The subjects think that they treat a certain person as a king because he is in himself already a king, while in reality this person is a king only insofar as the subjects treat him as one...the king's charisma \textit{is} a performative effect of their symbolic ritual...The moment the subjects take cognizance of the fact that the king's charisma is a performative effect, the effect is aborted.\footnote{Slavoj Zizek, \textit{Looking Awry: An Introduction to Jacques Lacan through Popular Culture} (MIT Press, 1992), 33.}

Though performative effects related to authority are not easy to combat where surveillance is concerned, they are in fact now being challenged in myriad ways by multiple groups around the globe.\footnote{One such example is that of the Surveillance Camera Players (SCP). The SCP are an activist group (currently numbering 23 groups in 8 countries) who stage a unique form of protest against surveillance cameras. Their idea is to reverse the gaze and defy it by seeking out cameras in public places such as those belonging to the State, large private corporations and staging a set of different performances in front of the camera. Their performances of works such as Orwell's \textit{1984}, Reich's \textit{The Mass Psychology of Fascism} etc are intended to make a political statement on surveillance. They tape their performance and put it up on the Internet for audiences around the world to view. The bottom line, in the group's founder Bill Brown words is "We prize autonomy."Erich W. Schienke and Bill Brown, "Streets into Stages: An Interview with the Surveillance Camera Players' Bill Brown," \textit{Surveillance and Society} 1, no. 3 (2003): 363.}

However, as explained previously, today the predominant mode of surveillance is no longer panoptic. As a result of technological advances, surveillance is omni-directional and widespread. It is less of an instrument brandished by the state or even by a privileged class and more a pervasive characteristic of human interactions. The challenge, as I see it, lies in resisting \textit{this} kind of surveillance.

\footnote{Similarly, Steve Mann, an engineering professor from the University of Toronto has spent thirty years living as a cyborg. He cautions us about our vulnerability to technology particularly technologies of vision, such as surveillance cameras. He refers to several methods of subverting the gaze such as “shooting back.” He wears video cameras and walks around in public spaces, capturing everything and everyone, in an attempt to elicit reactions from both citizens and public officials. Mann urges us to view ourselves as human beings as opposed to simply bodies who are constantly being observed and categorized. He provokes us to oppose surveillance, rather than be complicit in it. He questions the value of surveillance by asking if the costs such as the demise of privacy are worth the so called benefits i.e. the promise of security and utility. On a more mainstream note, a political party known as the Pirate Party started in 2006 in Sweden (and is now the country's third biggest party) stands for contemporary themes such as the right to privacy, reform of copyright, rejection of online piracy, right to free press, reform of trademark, right to government transparency and abolition of Digital Rights Management etc. Based on its success in Sweden, there is now an international pirate party movement based on the same agenda. The local versions of the pirate party now exist in several other European countries, Australia, Chile and even in the US.}
One popular response to this problem has been along the lines suggested by David Brin, i.e., the idea of “reciprocal transparency”, where surveillance technologies are freely available to everyone so that we call can surveil the surveilers.\footnote{This is akin to Rousseau’s idea of everyone watching one another; the logic is that we are safe as no one can hide anything. The difference in our time is that we use sophisticated technologies to achieve this transparent society, which has made it easier to surveil over one another.} I find this approach unsettling and even dangerous. In my mind it is akin to the Cold War solution of “mutually assured destruction.” But Brin’s view illustrates two important trends: 1.) the potential demise of civil liberties (privacy in particular); and 2.) the belief that a proliferation of surveillance technologies is somehow inevitable. I think both notions need to be contested.

Marc Rotenberg, the founder of EPIC\footnote{The Electronic Privacy Information Center (EPIC) as its name suggests keeps a close eye on issues surrounding surveillance, technology and civil liberties.} (a Washington DC based research institute), accurately predicted more than a decade ago that “privacy will be to the information economy of the next century what consumer protection and environmental concerns have been to the industrial society of the 20th century.”\footnote{From: \url{http://epic.org/epic/staff/rotenberg/} (accessed on March 02, 2010).} These days there is hardly any such thing as a reasonable expectation of privacy, nor is it something that power and/or money can buy. This is evident from all the surveillance to which we are subject and the intimate details of people’s (from ordinary citizens to public figures’) private lives to which we are privy. Highlighting this trend, Google’s CEO Eric Schmidt recently made the following statement: “If you have something that you don't want anyone to know, maybe you shouldn't be doing it in the first place.”\footnote{The Huffington Post, 12/07/2009. From: \url{http://www.huffingtonpost.com/2009/12/07/google-ceo-on-privacy-if_n_383105.html} (accessed on March 02, 2010).}

The problem with this kind of thinking is that it undermines legitimate privacy concerns and impinges on our freedom. For instance, what if one has a mental illness for which s/he is being treated? Or even something less serious but important all the same, such as an intent to
find a new job that (understandably) one does not want to be disclose to one’s current employer. Schmidt’s suggestion would make it impossible keep any of these things private.

His line of argument is based on the fact that even Google has to comply with the Patriot Act, which means that “it is possible that information could be made available to the authorities.” This illustrates another related issue: the use of the Internet (and related technologies) has led to a manifold increase in the ability to monitor users, by tracking their online activity through IP (Internet Protocol) addresses which are unique to every Internet connection. But, most of us (especially the younger generation) seldom think twice about issues of surveillance and privacy while using the Internet. Though privacy is still regarded as an important policy issue (every business and website has an official privacy policy), the traditional notion of individual privacy seems increasingly to have an antique quality about it. It is the older generation who tend to worry about the dangers of giving out too much personal information, such as being stalked online, misled by strangers, and falling prey to scams. The younger lot (mostly people in their teens and 20’s) are less mindful of these kinds of issues and tend to be uncritical about embracing the benefits this new tool has to offer.

Andy Warhol could well have been describing today’s social culture when he remarked in the 1960’s that “in the future everyone will be world-famous for 15 minutes.” Many among us voluntarily disclose copious amounts of personal information (activities, addresses, photos, videos of ourselves, friends and family) through blogs and social networking sites such as Facebook, MySpace and Twitter. It appears that many of us are willing to let go of traditional notions of privacy for the social benefits derived through self-transparency, such as making new contacts, exploring business opportunities, promoting causes, finding romance or simply “15


403 Ibid.
minutes of fame.”\textsuperscript{405} Also, privacy appears to be less of a concern when disclosure is seemingly mutual, i.e., when everyone can access everyone else’s information.

The problem with this attitude (and Brin’s line of argument) is that it makes us increasingly vulnerable to manipulation. The idea of reciprocal transparency can easily be reconciled with a basic tenet of democracy, i.e. the notion of equality; and today one can well imagine the approach of a voyeuristic utopia in which equality is interpreted in terms of one’s ability to spy on others.\textsuperscript{406} It is even possible to imagine that an arrangement of reciprocal surveillance will lead to more equitable power relationships. But surely this is naïve because power can never be \textit{fully} transparent. Thomas Spragens has rightly argued that most of us are objects of “the gaze” (and the manipulative possibilities it presents) most of the time and that only the few in positions of power are truly afforded the privilege of subjectivity. Moreover, while everyone and everything is being exposed and made visible, the forces responsible for surveillance are becoming increasingly opaque.\textsuperscript{407}

It is precisely for this reason that we need to safeguard our civil liberties. One could argue that ideas such as privacy are simply old fashioned and that we should be looking to new ideas for a new age. However, I am convinced that there are certain ideas that have enduring value for the conduct of politics and our lives in general; and privacy is one of them. These

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\textsuperscript{405} Joseph Crandall argues: “In media-saturated societies, surveillance has gradually been made ‘friendly’ and transformed into spectacle, to the extent that it is no longer a condition to be feared. Rather, it is a condition to be courted: witness the phenomena of reality television, blogs, and webcams, and the rise of the media mise-en-scene as the primary form of social authentication.”Joseph Crandall, "Operational Media,” \textit{CTheory} (1/6/2005). From: \url{http://www.ctheory.net/articles.aspx?id=441} (accessed on March 05, 2010).
\textsuperscript{406} As Hillary Putnam rightly points out ensuring equality alone does not guarantee freedom. “The value of equality does not have much to do with individual freedom” and that it “can be reconciled with various sorts of totalitarianism.”Hilary Putnam, \textit{The Many Faces of Realism} (La Salle: Open Court, 1987), 46,51.
\textsuperscript{407} Most of the time, we are unaware of the kinds of information being collected about us and its end use. Hence the threat to our privacy is not necessarily from our friends and people who know us but from anonymous corporations who collect information about us (in a relatively innocuous way from the data trail we leave behind as a part of our daily transactions) and share them with the state (or others) who are willing to buy this data.
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values are “not simply like clothes which we outgrow or like shoes we leave behind”; they “shape our moral identities....and our vision of the good life.”

However, it would be impractical to suggest doing away with all surveillance technologies. Given the complex nature of society and politics, surveillance does have an important role to play where law and order is concerned. While it may be true that surveillance is generally undesirable, one could definitely argue that there are cases where people should be watched by the civil authorities. One thinks of certain kinds of criminals, for example. It is obvious that in some circumstances surveillance is necessary. But if this is true, then we need to stop generalizing and start drawing distinctions among different kinds of cases. The surveillance of a convicted child-molester, for example, does not have the same moral status, I think, as the surveillance of a political dissident, or of school children. So, my objection is not to surveillance per se; it is to transparency, understood as a radicalized form of vision that requires generalized and pervasive surveillance.

My concern is that there has been an indiscriminate proliferation of surveillance technologies leading to mass surveillance rather than targeted intelligence gathering. One of the key issues is that the rapid increase in the growth, scope and efficiency of surveillance technologies has not been accompanied by appropriate regulation of the use and application of these technologies, and as a result they are all too commonly being misused.

The connection between freedom and surveillance technologies is dependent on the degree of human agency afforded by their use. Jeffrey Rosen in his book The Naked Crowd

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408 Seyla Benhabib, Situating the Self: Gender, Community and Postmodernism in Contemporary Ethics (New York: Routledge, 1992), 189.

409 In February 2009 the House of Lords Constitutional Committee in the United Kingdom published a report called Surveillance: Citizens and the State, in which recommendations were made suggesting that the privacy laws be made more stringent. The proposals in this report are applicable globally. The Report calls for a much stricter Data Protection Act and Privacy and Electronic Communications Regulations. This policy is to be enforced by an Information Commissioner who will have authority to look into privacy matters not just where state surveillance is concerned, but with respect to commercial databases as well.
shows how choices do exist when we are making decisions about technology. This is particularly relevant given the intense on-going debate about the use of full body scanners in airports across the world. Rosen describes two kinds of body screening machines used in airports. He labels one the “naked machine” and the other the “blob machine.” In the former the exact detailed silhouette of the body is revealed along with the hidden objects it is carrying. In the latter the exact silhouette is masked and replaced by a standard one along with any hidden objects. Thus it is less invasive by design and “guarantees exactly the same amount of security without [excessively] depriving liberty or invading privacy.” This suggests that we have choices, that there is nothing inevitable about the development and adoption of any particular technology. Alternatives usually do exist if people care to investigate the matter.

A Normative Framework

The problem with both kinds of transparency, i.e., surveillance and publicity, is that they are implicated in the use of technologies over which we have little power when our societies are regulated. I argue that the questions of what is to be made visible, how and to whom, are matters that need to be subject to collective decision-making in which the public plays an active role. I propose that our use of ocular technologies for social and political purposes needs to be interrogated on an ongoing, case by case basis. All these technologies and their uses need to be evaluated from a moral and ethical standpoint that is informed by a concern with such values as truth, justice and freedom in the same way that we judge human actions.

But in order to adequately debate the matter we need to have an appropriately sophisticated and nuanced framework for reflection. I venture here to propose a set of ideas that might well serve that purpose.

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I favor an approach that combines the ideas of Habermas and Foucault. I take the advice of Thomas McCarthy when he says that rather than having to pick sides between the two theorists we should “combine them in constructing theoretically informed and practically interested histories of the present.”

Concerning the idea of transparency, in my view the individual perspectives of Habermas and Foucault are both flawed. Habermas’ notion of transparency is somewhat naïve as it ignores the power dynamics that arise from requiring excessive visibility. On the other hand, Foucault’s single-minded focus on power, along with his chilling description of panopticism, instills anxiety and in some ways this serves the Panopticon’s purpose of disciplining the inmate through the fear of being watched. However, I argue that both thinkers still have valuable insights that can work well in tandem to uncover and help to overcome the repressive aspects of transparency in politics.

For Habermas, emancipation can only operate in situations that have already been rendered discursive, so he has little to say about situations that remain stubbornly caught in the prediscursive mode. Since the repressive aspects of transparency are not always readily identifiable, the use of a Foucaultian method can be valuable in making power visible and accountable. The Foucaultian method is one of detecting and revealing the “microphysics of power.” In typical postmodern fashion, Foucault does not believe in grand narratives. According to him one must conduct “an ascending analysis of power starting …from its infinitesimal mechanisms.”

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412 Diana Coole, ”Habermas and the Question of Alterity” in Maurizio Passerin d’Entrèves and Seyla Benhabib, eds., Habermas and the Unfinished Project of Modernity : Critical Essays on the Philosophical Discourse of Modernity (Cambridge, Mass: MIT Press, 1997), 234.

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exercises of power embodied in local, regional and material institutions “on a more minute everyday level.” So I would propose that the concept of transparency needs to be approached from this perspective.

However, Foucault does not have a clear normative position from which to develop an alternative framework. Once the oppressive nature of particular practices of transparency have been identified through a Foucaultian analysis, a Habermasian perspective can help open up the discursive space where these ideas can then be subjected to public discourse.

Habermas' theory provides a structure for the sort of communication that can take place within the public sphere. It is different from the kind of method undertaken in the sciences, where observers do not necessarily reflect on their own epistemological assumptions to reach a valid conclusion. Critical theory requires us to examine critically our primary assumptions. In this way it makes it possible to unveil the ideology that lurks behind dominant practices. Once the meaning is clear the matter can then be opened up to further dialogue, so as to reach a shared understanding/outcome. Through a combination of the two methods it should be possible to interpret and (if required) re-interpret particular practices of transparency.

A question that then arises is: will such an approach work in practice? Jeffrey Rosen points out that as of now, the world over, “there is no obvious political constituency” for re-thinking the ideas surrounding surveillance. Why? The reason is, as Zizek so nicely frames it, is that “we feel free because we lack the very language to articulate our unfreedom.” Hence, today “a comfortable, smooth, reasonable, democratic unfreedom prevails” and this is indeed “a

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414 Ibid. p. 60.
415 Rosen, The Naked Crowd: Reclaiming Security and Freedom in an Anxious Age
token of technical progress."\textsuperscript{417} We have come to believe in an inevitable need to subscribe to technologies of transparency in order to derive their alleged benefits, such as security, ease of transactions, information, recognition, and pleasure.\textsuperscript{418} This has made us reluctant to confront the larger ethical concerns surrounding the notion of transparency.

I do believe that agency is possible, but I am also aware of the difficulty in bringing about positive change. This would entail nothing less than a significant cultural shift that would recast the ethos of democratic politics as we know it.\textsuperscript{419} Democratic politics requires a conception of equality that is more strongly linked to the notion of liberty than ever before. In order for this to happen we need to develop a much greater sensitivity than exists now to the dangers posed by surveillance (Foucault's contribution) as well as a much greater appreciation of the value of a truly participatory politics (Habermas' contribution). But the complexity of this project means that the odds are heavily stacked against success. And our seemingly unquenchable appetite for ever more sophisticated technology appears to be increasing those odds all the time.

**Conclusion**

Up to this point, I have sought to present the promise and the dangers of the two main elements of transparency, publicity and surveillance. I want to emphasize, in no uncertain terms, that both are essential for the moral as well as efficient conduct of politics. However, the implication throughout this dissertation has been that the idea of transparency is greater than the


\textsuperscript{418} See Chapter IV.

\textsuperscript{419} There is evidence that we increasingly paying more attention to issues concerning technology, surveillance and privacy. There has been a change in the level of awareness regarding these issues even since I began writing this dissertation. For instance, there are regular columns now in prominent news websites such as the *Huffington Post* devoted exclusively to issues concerning technology, surveillance, privacy and ethics. However, the momentum and reach of these ideas are not nearly enough to bring about a serious a significant change in our beliefs and practices concerning the above mentioned topics.
sum of its parts, with a momentum and following of its own. By way of conclusion, I directly address the question of the value of evoking the language of transparency.

Beth Simone Noveck poses the question this way:

Why transparency? Why not use an ascription such as ‘public’ and ‘private’? First, the answer is that transparency is a useful and powerful leitmotif to explain what we mean by public deliberation without which understanding we cannot promote it in real or virtual space. Clarity catalyses change. ‘Transparency’ returns us to first principles by placing the emphasis correctly on the illumination and visibility of a public arena where power relationships among actors are discernible.  

This is indeed the prevailing rationale for adopting the language of transparency. The assumption is that a focus on transparency and illumination will lead to more equitable power relationships. But, from its very inception the idea of transparency in politics has been compromised by the opacity of power. In Rousseau for example, transparency was primarily meant to establish authenticity in public life. Yet this could only be achieved by an opaque form of social engineering in which transparency was achieved by not so transparent means (i.e., the work of various authority figures such as the Legislator in The Social Contract and the Tutor in Emile). Thus the dream of a transparent political society was defeated before it even began.

I attribute this outcome to the ocular bias inherent in the language of transparency, which in my view all too easily lends itself to radical thinking (such as the views expressed by Rousseau in the past and David Brin in the present). When taken literally the word transparency means that “no one should be ‘hiding something,’ no matter what it is. Everything must be publicly confessed, no matter how banal or reprehensible. There is something suspicious - something morally offensive”  about people who refuse to disclose all. But in pursuit of this

420 Noveck, "Transparent Space: Law, Technology and Deliberative Democracy in the Information Society."
kind of “ideal” what has actually been achieved is a *simulation* of transparency, which has only made our societies more complex and opaque.

Adorno and Horkheimer aptly observe in their work *Dialectic of the Enlightenment* that the scientific pursuit of the enlightenment, which began as a project to combat myth, could itself easily turn into myth. My contention is that this has happened in our use of the idea of transparency. And the consequence ironically is that various other forms of concealment and deception have been generated. From examining the history of this political ideal, I conclude that transparency is a dangerous illusion.

How then should we be thinking about the issues at stake in this realm? I turn to Hannah Arendt for guidance. Her work neatly links publicity and surveillance and in a way that captures well what is troubling about the notion of transparency. In many ways her perspective overcomes the shortcomings of the other thinkers discussed in this dissertation. Unlike Kant she does not believe in self-transparency; unlike Rousseau she rejects homogeneity; unlike Habermas she does not feel the need to make communication altogether transparent; and unlike Foucault her critique is accompanied by a plan for action.

Arendt mourns our loss of the public sphere, which she understands as the realm of Action. She says “individuals no longer act but merely behave as economic producers, consumers and urban city dwellers.” She blames this partly on the fact that politics has been overdetermined by a technical rationality, which in turn privileges transparency and clarity.

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422 Horkheimer and Adorno, *Dialectic of Enlightenment*, xvi. By this statement they imply that the Enlightenment beliefs were so rigid that it created a closed system which operated just like myth.

In the *Human Condition* she remarks that science “moves in a world where speech has lost its power.”

Publicity as a victim of technocratic reason confirms this observation. Arendt criticizes technology on the grounds that it promotes the utilitarian logic of Work and Labor which at the same time devalues politics and thwarts plurality, especially the plurality required for Action. She voices concern that the utopia of transparency is as dangerous, in its own way, as a regime of secrecy, since both can lead to totalitarian outcomes. Transparency is based on the underlying logic of a homogeneous identity (as implied as far back as Rousseau’s writings). In a technocracy, politics is akin to social engineering, and the masking of difference makes us vulnerable to totalitarianism. Simply put, a surveillance camera does not distinguish between a terrorist and a law-abiding person. Both Nazi Germany and Stalin’s Russia were transparent societies where people found it difficult to conceal themselves from the state. In her analysis, therefore, the erosion of democratic dialogue leads us back to dangers inherent in surveillance.

Arendt frames her argument in terms of the philosophical distinction between essence and appearance. The former is reached by single-minded pursuit of truth, as conducted by a philosopher, while the latter is pursued via a chaotic interaction of multiple voices, deceptions and opacity, corresponding to the masses. Arendt argues that philosophy has always privileged essence over appearance. She acknowledges the fact that appearances inevitably are accomplished by dissimulation, opacity and illusion. But instead of trying to overcome these limitations Arendt suggests that we must engage and experience them as a part of public life. The lack of transparency does not prevent ethical politics; rather it enriches politics and makes it unique.

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Arendt values appearance because plurality depends on it. Plurality for Arendt is a necessary condition for action and speech. She acknowledges the fundamental plurality of human beings when she says “that not man but men live on the earth” and each one is a “distinct and unique being among equals.” As a result of this uniqueness each one is also dependent on other human beings. Hence plurality is a fundamental part of our existence in this world. Arendt believes that our plurality is articulated through our actions and speech. She writes: “In acting and speaking, men show who they are, reveal actively their unique personal identities and thus make their appearance in the human world.” From Arendt’s account plurality, action, speech and freedom are intrinsically linked in a fragile way. The freedom to act and speak depends on the ability to “appear” as oneself.

For Arendt freedom “is actually the reason that men live together in political organizations...Without it, political life as such would be meaningless. The raison d’être of politics is freedom, and its field of experience is action.” She claims that freedom does not lie in the life of contemplation (the vita contemplativa) and self-transparency; rather it is achieved by engaging with the world in public through a life of action (the vita activa). She argues:

Our philosophical tradition is almost unanimous in holding that freedom begins where men have left the realm of political life inhabited by the many, and that it is not experienced in association with others but in intercourse with one’s self.

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426 Ibid., 178.
427 Arendt, The Human Condition, 179.
428 Ibid., 175. Arendt explains that who and what we are is not entirely of our own making but is dependent on how we appear for seem to others. She writes: “To appear always means to seem to others and this seeming varies according to the standpoint and the perspective of the spectators. In other words every appearing thing acquires, by virtue of its appearingness, a kind of disguise that may indeed-but does not have to-hide or disfigure it. Seeming corresponds to the fact that every appearance...is perceived by a plurality of spectators.” Arendt, The Life of the Mind, 21.
429 Ibid., 146.
According to Arendt we develop our sense of freedom (and unfreedom) when we interact with others. She says people “are free...as long as they act, neither before nor after, for to be free and to act are the same.”\(^{431}\). By defining action as freedom and freedom as action Arendt treats politics and the exercise of freedom-as-action as one and the same.

Arendt calls for a “distinction between utility and meaningfulness” by distinguishing between “in order to” and “for the sake of.”\(^{432}\) Her categories of Work and Labor\(^{433}\) are utility based, while Action is geared towards a more meaningful end. Arendt clarifies: “To act ...in the most general sense, means to take an initiative, to begin...to set something into motion.”\(^{434}\)

Science and technology for Arendt fall under the category of Work and Labor. When technology seeps into political space the scientific approach becomes a model for acting and it molds the world according to its unitary and instrumental logic. Arendt locates the origins of totalitarianism in a certain kind of thinking that emerged during the Enlightenment. It has to do with the cultivation of a calculating, technical/instrumental reason which came about as a consequence of modernity’s single-minded pursuit of technological progress. The problem with an all pervasive technical rationality is that human interactions also come to be viewed in an instrumental way.

What disturbs Arendt is that scientific knowledge is based on overcoming plurality, as it demands a non-debatable, singular, unified approach to every problem.

Today many of us are seeking a transparent society and we are using technology to realize this aim. But for Arendt this is misguided. It is a move we make at the expense of the

\(^{431}\) Ibid., 53.
\(^{432}\) ———, The Human Condition, 154.
\(^{433}\) Labor is that which is necessary to exist, for instance, eating, drinking and reproducing. It is “what men share with all other forms of animal life ..hence is not characterized by freedom.” Work pertains to creating something, for instance the activity of lawmaker, the craftsperson, the builder etc. Unlike Labor, Work does entail freedom to some extent; however it is still instrumental in character. Arendt considers Labor and Work private activities. The problem is that these categories have elevated themselves into the public realm (the “rise of the social” as she terms it), thus reducing politics to issues of mere necessity as opposed to higher ends such as freedom. Action is the highest form of human activity; it is distinctly political and is marked by freedom and plurality.
\(^{434}\) Arendt, The Human Condition, 177.
public sphere (the realm linking action, speech and freedom). As I have discussed earlier, the emphasis on transparency in the public sphere and the use of technology to realize this ideal has weakened our notion of dialogue and a tangible public. When discourse takes a back-seat, freedom is at risk, as a politics that privileges vision brings the danger of privileging surveillance at the expense of more authentically democratic goods.

So what is it that makes the idea of transparency in politics so attractive that even now it continues to captivate us? In all the thinkers we have examined in this dissertation, transparency functioned as a device used to reduce social complexity. The urge to make society and its workings transparent is in large measure, a desire to simplify the complex way in which society actually works. However, as the German sociologist Niklas Luhmann has noted, we need to confront the fact that society is complex and that there is no Archimedean point from which one can observe its workings as a whole. It is important to recognize that transparency is relative and that every object (including even clear glass) scatters some light. Social space is no exception: it inherently conceals power structures and can only masquerade as transparent. There is a well-documented tendency in western thought to posit binary or hierarchical oppositions such as light/dark and black/white; similarly transparent/opaque is just another polarity. These oppositions are “arbitrary and unstable” as they “overlap and clash.” Attempts to “purge the latter in itself signs its own death warrant.” Transparency’s “others” - secrecy, opacity, corruption, crime do not simply disappear on expunging shadows they metamorphose into “viral and terroristic forms that obsess us.”

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436 Ibid. p. 81
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