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A Social Movement for Privacy/Against Surveillance - Some Difficulties in Engendering Mass Resistance in a Land of Twitter and Tweets

Laura Huey

A Social Movement for Privacy/Against Surveillance? Some Difficulties in Engendering Mass Resistance in a Land of Twitter and Tweets

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Despite increased awareness of both privacy and surveillance issues and the forms of resistance frequently generated, little attention has been paid to the failure of issue advocates to spawn a larger pro-privacy/anti-surveillance movement in North America. In this paper, I examine three inter-related factors that I see as potentially inhibiting the generation of a pro-privacy/anti-surveillance social movement in North America. Drawing on social movements theory, I suggest that those seeking to develop such a social movement need to: (1) demonstrate to a wider audience that a problem exists that requires individual and collective action; (2) carefully consider how to frame the problem and, thus, the nature of the movement; and (3) set careful boundaries to delimit the nature and scope of the problem.

I. Introduction

It has become somewhat commonplace to say that the volume and configuration of surveillance within modern societies has increased significantly over the past few decades. What has been less well discussed, within both popular and academic discourse, is the extent to which such practices generate resistance. From public debates over national identity cards to technologies and programs that profile suspected terrorists to community stakeholder battles over the use of CCTV in public spaces, surveillance-based practices and regimes are clearly contested political territory. A quick scan of such activities in North America reveals an interesting fact that says much about the extent to which surveillance has become a significant political issue to wider segments of the population. Simply put, while certain surveillance activities can and do generate local, national, or international resistance, as a whole the issue of surveillance has yet to spawn a larger social movement.

Within this paper, I identify three inter-related factors that I see as potentially inhibiting the generation of a pro-privacy/anti-surveillance social movement in North America. Drawing on social movements theory, I suggest that those seeking to develop such a social movement need to first successfully grapple with the following issues: (1) it must be demonstrated that

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a problem exists and that taking action will prevent a harm to both the individual and the collective well-being of the general public; (2) advocates must carefully frame the problem and, thus, the nature of the movement; and (3) the scope of the problem must be clearly set in order to avoid the issue appearing too large or too amorphous and, thus, intractable. In the pages that follow, I examine these concerns, concluding with some final remarks on the likelihood of such a social movement arising.

II. RESISTANCE TO SURVEILLANCE

It might be helpful to begin with a definition of "social movement." For this purpose, I am borrowing from Jeff Goodwin and James Jasper, who state that "[a] social movement is a collective, organized, sustained, and noninstitutional challenge to authorities, power holders, or cultural beliefs and practices."[1] Such movements are defined by a collective sense of identity, ideology, and a shared grievance. "Collective efficacy comes when disenchanted individuals, first, recognize themselves as a group with a shared grievance and, second, believe that collective action can reduce or eradicate the source of grievance."[2] Throughout history, shared grievances have spawned a number of collective efforts to alter harmful social, political, economic, environmental, health, and other conditions with varying degrees of success.

Since the 1980s the issue of surveillance and the potential for erosion of citizens' rights to privacy have come increasingly to the fore in public consciousness. As technologies with surveillance capacities proliferate, so too have fears about their usage and meanings, leading citizens to engage in a number of forms of resistance. Automobile drivers evade anti-speeding cameras and/or advise other drivers as to the existence of speed traps, individuals routinely opt-out of retail programs that track their purchases, and others utilize encryption software and other tools in efforts to retain online privacy. Professionally organized advocacy groups, as well as local grassroots collectives, have also sprung up, either to defeat a particular surveillance proposal or to engender sustained resistance to surveillance schemes in general. Yet, in spite of such efforts, and despite growing concerns over the proliferation of surveillance forms in North America, none of the actions of individuals or collectives have led, to date, to the formation of a genuine social movement. Rather, what we tend to see are discrete battles over particular programs or technologies that fail to translate into a wider push on the issue of surveillance and/or privacy.

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[1]   SOCIAL MOVEMENT READER: CASES AND CONCEPTS 3 (Jeff Goodwin & James M. Jasper eds., 2003).

[2]   KRISTIN A. GOSS, DISARMED: THE MISSING MOVEMENT FOR GUN CONTROL IN AMERICA 32 (2006).

I am hardly alone in my assessment of the state of what can only be termed, at present, the anti-surveillance/pro-privacy *non*-movement. In a recent book on the politics of surveillance and visibility, Kevin Haggerty and Richard Ericson make no reference to a wider social movement in this field; rather, in surveying the landscape, they find surveillance to be a political battlefield on which individual *stakeholder groups*—both pro and con—attempt to influence particular configurations of surveillance.[3] In relation to those stakeholders on the anti-surveillance/pro-privacy side of the equation, Colin Bennett makes the point more explicitly, stating, "[t]he privacy advocacy network has never been regarded as a 'social movement' either by those within it, or by those observing from the outside."[4] Similarly, while David Lyon is of the view that privacy advocacy networks are "undoubtedly influential," he suggests that they fail to "count as a fully fledged 'social movement'."[5] Such views are echoed by Brian Martin, who also notes that "concern about invasions of privacy has not led to a mass movement against surveillance."[6]

To be clear, the views expressed by Haggerty, Ericson, Bennett, and Lyon in the previous paragraph are not universally held. In a recent study of resistance in the U.K. to the National Identity Scheme, Brian Martin, Rosamunde van Brakel, and Daniel Bernhard state that there is a "growing anti-surveillance movement that is emerging in response to expanding surveillance programmes [sic] in that country."[7] However, the only work I could find that suggests the existence of an anti-surveillance/pro-privacy movement in North America is that of Andrew Clement and Christie Hurrell.[8] In support of their contention that there is, indeed, a "privacy movement," these authors point to the work of a number of national advocacy organizations that they see as effective in highlighting privacy and surveillance is-

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[3] *See generally* THE NEW POLITICS OF SURVEILLANCE AND VISIBILITY 7 (Kevin D. Haggerty & Richard V. Ericson eds., 2006).

[4] COLIN J. BENNETT, THE PRIVACY ADVOCATES: RESISTING THE SPREAD OF SURVEILLANCE 200 (2008).

[5] DAVID LYON, SURVEILLANCE STUDIES: AN OVERVIEW 173 (2007).

[6] BRIAN MARTIN, INFORMATION LIBERATION: CHALLENGING THE CORRUPTIONS OF INFORMATION POWER 57 (1998).

[7] Aaron K. Martin et al., *Understanding Resistance to Digital Surveillance: Towards a Multi-disciplinary, Multi-actor Framework*, 6 SURVEILLANCE & SOC'Y 213 (2009), *available at* http://www.surveillance-and-society.org/ojs/index.php/journal/article/viewFile/ framework/framework (referring to a graffiti artist in London who has made a mural of resistance including a soviet police officer and a dog looking for a resister).

[8] Andrew Clement & Christie Hurrell, *Information/Communications Rights as a New Environmentalism?* (Canadian Research Alliance for Cmty. Innovation and Networking, Working Paper No. 3, 2005), *available at* http://www3.fis.utoronto.ca/iprp/cracin/publications/pdfs/WorkingPapers/CRACIN%20Working%20Paper%20No%203.pdf.

sues within the media.[9] In response to Clement and Hurrell's characteriza-tion of the network of privacy advocates as a "movement," I find myself echoing Bennett: "To date, notwithstanding recent successful campaigns against specific practices, nobody would contend that the greater salience of the issue is attributable to the rise of a broader 'pro-privacy' or 'antisurveil-lance' politics. It is still generally an elitist issue within government, busi-ness, and civil society."[10]

     Bennett's point is easily supported by reference to the fact that we have yet to see any form of mass mobilization on the issue of privacy or surveillance generally. Indeed, Clement and Hurrell make a similar observa-tion when they note "the great difficulty that the advocacy organizations have in mobilizing public support around anything other than dramatic pub-lic 'scandals.'"[11] As of this time of writing, in the field of privacy/anti-surveillance activism what we have is a network of privacy advocates that remains "somewhat fragmented with a relatively small, and geographically biased, core."[12]

     How do we explain that, despite the work of privacy advocates and grassroots activists to raise public awareness of the threat to privacy that various forms of surveillance may represent, an anti-surveillance/pro-privacy social movement has yet to materialize? Bennett offers two possible explanations. The first of these is that interest groups have yet to successful-ly mobilize resources in a manner that would provide impetus to the devel-opment of a wider movement.[13] Social movements require resources to translate ideas into action. Such resources include money, volunteers, and cooperative relationships with other groups within the framework of a strong collective network.[14] Bennett's first explanation suggests the possi-bility that a movement in this field might arise, but that it has yet to emerge because individual actors presently lack the means or the skills to acquire, pool, and employ the necessary resources.

     The second explanation Bennett proffers is the one with which this paper is more directly concerned. Bennett suggests the possibility that "there is something inherent in the issue, the properties of which can never elevate privacy and/or surveillance to a higher level of mass consciousness

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[9]   *Id.* at 14 (noting specifically Privacy International and the Electronic Privacy Informa-tion Centre (EPIC)).

[10]   BENNETT, *supra* note 4, at 207.

[11]   Clement & Hurrell, *supra* note 8, at 15.

[12]   Lucas D. Introna & Amy Gibbons, *Networks and Resistance: Investigating Online Advocacy Networks as a Modality for Resisting State Surveillance*, 6 SURVEILLANCE & SOC'Y 233, 248 (2009), *available at* http://www.surveillance-and-society.org/ojs/index.php/journal/issue/view/Resistance.

[13]   BENNETT, *supra* note 4, at 207.

[14]   GOSS, *supra* note 2, at 32 (citation omitted).

and political mobilization."[15] While I disagree with the use of the word "never" and, in fact, argue the opposite, I do share the view that there are a few problems in relation to the properties of the issue that inhibit the easy translation of individual privacy concerns into a broader-based movement.

III. CREATING A SOCIAL MOVEMENT: THREE PROBLEMS

In order to better understand why it is that the anti-surveillance/pro-privacy issue has yet to fuel sustained collective action in North America, I turn my attention to another *non*-movement: gun control in the U.S. In her analysis of the failure of gun control advocates to spawn a wider movement in the U.S., Amy Goss concludes that a number of factors have inhibited the development of mass mobilization on gun control, including the inability of advocates to articulate a message that resonates with a wider audience.[16] Borrowing from James Q. Wilson's 1995 study of public policy making, Goss argues that public policies *and* mass advocacy efforts in relation to opposing or supporting policies confer benefits and impose costs on individuals and groups.[17] Thus, potential participants of collective action individually weigh costs against the benefits of participation in collective action.[18] On the costs side of the ledger, participation may consume time and money as well as physical and/or psychological effort.[19] On the other side are potential psychological and practical benefits to be derived from participation.[20] In some situations, the practical benefits are clear to participants, and they view the effort involved as minimal; however, in relation to certain forms of public goods, the benefits are not always evident or seen as realizable, and the effort may seem too great in light of the potential rewards. Thus:

> [T]he central challenge to issue entrepreneurs who want to mobilize the public is to alter individuals' cost-benefit calculation in a way that will increase the odds of participation. To do so, issue entrepreneurs must turn the cost-benefit calculation on its head, by concentrating the benefits of participation at the individual or small-group level and distributing the costs to the broader society.[21]

Goss elaborates on three means by which potential movement leaders can alter the cost-benefit ratio in order to increase citizen participation. First,

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[15] BENNETT, *supra* note 4, at 207.

[16] *See* GOSS, *supra* note 2, at 50.

[17] *Id.* (discussing JAMES Q. WILSON, POLITICAL ORGANIZATIONS (1995)).

[18] *See* GOSS, *supra* note 2, at 50.

[19] *Id.*

[20] *Id.*

[21] *Id.*

issue advocates can redistribute the costs of participating across either a wider group of individuals or across individuals and organizations with greater resources.[22] Second, issue advocates can personalize the potential benefits to individuals and groups by framing the issue in such a way that citizens recognize the problem and feel both entitled and obligated to act.[23] The third method of engendering a recalculation entails convincing potential participants that their efforts will yield a positive outcome, what Goss terms "increasing the participation payoff."[24] To the extent that issue advocates successfully engage in these three activities, Goss explains, the greater the likelihood of engendering mass mobilization.

In relation to examining the potential for a pro-privacy/anti-surveillance movement, I want to focus more specifically on the second means—that is, the task of personalizing benefits for would-be participants. In essence, I intend to argue here that there are three inter-related issues that pro-privacy/anti-surveillance advocates face in relation to this task. First, there is the need to demonstrate to the wider public that there is indeed a problem that requires action. The existence of such a problem may appear crystal clear to advocates, but to the extent that privacy or anti-surveillance issues remain "elitist issue[s],"[25] we can safely assume that their messages are not resonating in a world of Twitter and tweets. Second, there remains the issue of how the problem should be framed—is it a privacy issue or is it a surveillance issue? Is it both? And, of course, what are the benefits and disadvantages of choosing one frame over another? Third, advocates need to consider the possibility that without clearly delimited boundaries, the scope of the problem may appear as too large or the problem too amorphous, thus encouraging people to believe that their efforts will yield few positive results.

A.   *It's the End of the [Privacy] World as We Know It (and I Feel Fine)*[26]

In 2000, Reginald Whittaker published a book, the title of which contained a rather gloomy prophecy that caused many surveillance scholars and privacy advocates to howl in minor outrage. The book was *The End of Privacy: How Total Surveillance Is Becoming a Reality*, and the author's central claim was that vast amounts of information about citizens are increa-

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[22]   *See id.* at 51.

[23]   *Id.*

[24]   *Id.*

[25]   BENNETT, *supra* note 4, at 207.

[26]   REM, *It's the End of the World as We Know It (and I Feel Fine)*, on DOCUMENT (Capitol Records 1987).

singly being amassed and used by corporate entities.[27] The conclusion to be drawn from what is rightly suggested to be a staggering loss of personal privacy is, as evidenced by the title of the book, that the end of privacy is nigh. Some nine years later, with the proliferation of surveillance technologies and regimes continuing nearly unabated, and with more and more people voluntarily giving the world voyeuristic peeks into their interior lives, one wonders if maybe Whittaker may have undersold his thesis a little.

I raise Whittaker's book here, and the social and technological changes that have subsequently taken place in the few short years since it was published, to make a point: perhaps the largest issue privacy/anti-surveillance advocates face today is demonstrating that privacy is something to be protected or, conversely, that surveillance is something from which to be protected—that is, that there is actually a social harm that requires remedying. Part of the problem rests with the fact that privacy is a concept with variable meaning. Thus, whereas some airline passengers may take exception to being screened by airport security with the use of full body scanners, others may simply see such practices as an acceptable cost of flying. Similarly, while it is the case that some of us may eschew the new technologies and social networking sites out of concerns for our privacy, the fantastical growth in usage of sites such as Twitter and Facebook—which not only permit but encourage up-to-the-second posting of one's whereabouts and doings—suggests that we may well end up in the minority. More importantly, we have to ask how does one convince a growing number of people, who increasingly believe that "to be seen (as well as to see) can be 'fun',"[28] that the practices they engage in are tied to something harmful that they ought to be fighting against? Or, in the case of airport scanners, how can people who see the scanners as a suitable method for expediting long lines at airport security be convinced that they are, in effect, giving up something important only to gain a few extra minutes at the airport duty-free? These are the types of questions with which potential leaders of a pro-privacy/anti-surveillance social movement must grapple.

B.   What Do You Call This Thing?

In analyzing the roles that identity building and social relationships play in spawning and sustaining social movements, William Gamson contends that "[a]ny movement that hopes to sustain commitment over a period of time must make the construction of a collective identity one of its most

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[27]   *See generally* REGINALD WHITAKER, THE END OF PRIVACY: HOW TOTAL SURVEILLANCE IS BECOMING A REALITY (2000).

[28]   Hille Koskela, *'The Other Side of Surveillance': Webcams, Power and Agency*, *in* THEORIZING SURVEILLANCE: THE PANOPTICON AND BEYOND 172 (David Lyon ed., 2006).

central tasks."[29] In relation to developing a pro-privacy/anti-surveillance movement, the matter of how to frame the core issue and, thus, the nature of the movement itself, remains an uncompleted project. In other words, should the central issue that drives a potential movement be anti-surveillance, or ought the focus be instead on protecting or bolstering privacy rights?

There may be some confusion among advocates and scholars as to why I make a distinction between these two concepts. Certainly, anti-surveillance and pro-privacy are frequently conflated; however, to use an analogy, we are really talking about two different sides of the same coin. I am not alone in making this point. In his own work on anti-surveillance, Brian Martin has cogently argued for drawing a careful distinction between privacy and anti-surveillance.[30] For Martin, a social movement based on a "right to privacy" is problematic for several reasons, not the least of which is the fact that privacy is centered on a liberal notion of individual rights granted by the state. In contrast, surveillance is about power and unequal relationships within and across society; thus, surveillance moves us beyond the citizen-state relationship towards a politics that also encompasses the myriad of private relationships that structure our social lives. As Martin notes, "[a] focus on privacy directs attention to the individual whose privacy is invaded; a focus on surveillance directs attention to the exercise of power and to the groups that undertake it."[31]

Another consideration in relation to the question of how to frame the problem to be tackled is one that we have encountered previously: the fact that privacy is highly subjective. What the notion of privacy may entail for me can be vastly different from what it entails for others; thus, finding common agreement on the nature and scope of the problem, and how best to tackle it, could prove a near-impossible feat. In answer to this dilemma, Martin suggests that "people who have different concepts of privacy may agree to oppose particular types of surveillance."[32] I find his wording particularly instructive in relation to the point that I seek to make: "particular types of surveillance" suggests actions against clearly delimited regimes or technologies—what is, in effect, already happening under the patchwork quilt of anti-surveillance activities—which may prove to be insufficiently broad to support the founding of a social movement.

Yet, if we stop for a minute to consider the matter, framing a social movement around the right to privacy also makes strategic sense. After all,

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[29] William A. Gamson, *Commitment and Agency in Social Movements*, 6 Soc. F. 27 (1991).

[30] *See* MARTIN, *supra* note 6.

[31] *Id.* at 65.

[32] *Id.*

there is, to the best of my knowledge, no state that has granted a positive or a negative right to "anti-surveillance," and therefore anti-surveillance does not provide a ready hook upon which to construct legal, moral, and ethical challenges to programs or regimes. To the extent that there is a "right to privacy" enshrined in legislation, case law, and, perhaps more importantly, in the public psyche, we cannot dismiss entirely the potential utility of "privacy" in framing a social movement. In short, the question of what type of a movement should be created remains both an open and a difficult one.

C.   Too Many Heads—The Hydra Complex

The matter of how to frame the social harm to be tackled raises not only a concern in relation to setting the scope too narrow, but it also tosses up the equally legitimate concern that the scope may be set too wide, or the problem framed in such a way that it appears too amorphous to generate the belief that anything can be done at all. Again, participants join a movement because they believe that their actions—in a collective sense—will increase the likelihood of a positive outcome.[33] In relation to both the concepts of privacy and surveillance and the issues each generates, what we frequently face is a hydra-headed complex of interlocking problems that can appear without end and/or simply too large to be successfully tackled. In other words, the focus of, for example, an anti-surveillance movement will necessarily be on the "surveillance assemblage"—that is, the cumulative processes and effects of "multiple, unstable" regimes that lack "discernible boundaries or responsible governmental departments" crisscrossing, as they do, the public-private divide.[34] As Haggerty and Ericson note,

> In the face of multiple connections across myriad technologies and practices, struggles against particular manifestations of surveillance, as important as they might be, are akin to efforts to keep the ocean's tide back with a broom—a frantic focus on a particular unpalatable technology or practice while the general tide of surveillance washes over us all.[35]

Conceptually, privacy is of little help either. Its "diffuseness and multidimensionality" render privacy "one of those issues that *is* a mile wide and an inch thick," thus it is not the type of public issue that easily lends itself to fostering "deep and abiding commitments"[36] as, say, anti-smoking or animal rights do.

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[33]   GOSS, *supra* note 2, at 32.

[34]   Kevin D. Haggerty & Richard V. Ericson, *The Surveillant Assemblage*, 51 BRIT. J. SOC. 605, 609 (2000).

[35]   *Id.*

[36]   BENNETT, *supra* note 4, at 213 (emphasis in original).

In short, issue advocates seeking to spawn a larger social movement in this field will have to grapple with the rather thorny question of how to set boundaries on the size and scope of the problem so as to avoid pessimism and confusion over the possibilities of effecting change.

IV. Is a Pro-Privacy/Anti-Surveillance Movement Possible? Some Final Thoughts

In the preceding paragraphs I have sketched out some of the difficulties that issue advocates face in attempting to generate a pro-privacy and/or anti-surveillance social movement. The successful resolution of each of these inter-related issues—(1) identifying the problem; (2) framing the overall nature (and thus the goal) of the movement; and (3) demarcating clear issue boundaries—is viewed as critical to the task of broadening social support. While it is the case that the challenges noted are rather complex, they are not insurmountable.

For instance, in relation to the question of demonstrating that there is, indeed, a problem, issue advocates might build public awareness campaigns based on a particularly egregious and well-known example of a violation of privacy, carefully drawing links between this example and other surveillance-based technologies or practices to show the broader implications of the issue. The goal of such an exercise, simply put, is to alter the cost-benefit ratio by revealing hidden costs associated with the use of a particular technology or set of technologies. An excellent illustration of how such challenges to the cost-benefits calculation can be achieved is found in the example of Facebook. When Facebook users became aware of the extent to which their personal information might be collected, stored, and shared on the site, a wave of resistance was generated that culminated in stricter site privacy controls.[37] What issue advocates must capitalize on is the fact that when people are made aware of the potential for hidden or other costs that will negatively impact or outweigh assumed benefits, they are more likely to re-assess their behavior and/or views on an issue.

The question of how to frame the movement is a tricky one. As noted, there are distinct advantages and disadvantages to being pro-privacy versus anti-surveillance and vice-versa. The pro-privacy movement relies on liberal notions of "rights" which mandate state-based remedies, whereas the anti-surveillance movement moves us beyond the state to the crux of power relations in both public *and* private spheres. Whereas Solomon was inclined to problem solve by cleaving a disputed object in half, I see some utility in combining both pro-privacy and anti-surveillance approaches—the sum of

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[37] Andrés Sanchez, *Facebook Feeding Frenzy: Resistance-Through-Distance and Resistance-Through-Persistence in the Societied Network*, 6 Surveillance & Soc'y 275, 286–7 (2009).

two parts being greater. The latter problem-solving tactic allows for both state-based remedies, as well as taking us beyond the limits of that same state-based approach. The inherent problem with combining these issues is, I recognize, that we risk muddying the conceptual waters by making the problem too large or too murky; however, the converse is that we risk limiting both the scope of the problem and the potential solutions so severely that any collective efforts will be hamstrung from the beginning.

On its face, the hydra-headed problem also appears insurmountable. After all, how does one go about attempting to combat an enemy that seems to be here, there, everywhere, and nowhere at all? Still, social movements based on other amorphous notions of what constitutes a public good have been successfully generated in the past and present. The anti-globalization movement—based on another hydra-headed set of issues—represents an excellent case in point.[38] Such successes suggest that, although laden with inherent difficulties in terms of constructing a suitable frame, spawning a successful pro-privacy/anti-surveillance movement is not an entirely impossible task.

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[38]   *See* BENNETT, *supra* note 4, at 207.