"Open the Snowden Files!"
Raising New Issues of Public Interest

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Is there a global surveillance industry, in which states and corporations share interests and files beyond democratic legitimation and control? By raising this question and partly answering it, the Snowden files have proven to be of public interest. This is emphasized by the fact, that they have prompted a great, exceptional media narrative -- if only for its unusual duration (unfolding over the course of more than a year and stimulating a variety of debates). But the political and social impact has been fairly limited. Why has there been no mass protest? Why no major upheaval?

My thesis: The public interest has not been exhausted yet. This has also to do with the fact, that the access to the documents of the NSA-Gate remains closed. Material, that one exceptionally brave citizen put together "at the risk of his life" (Constanze Kurz) because he considered it to be of public interest -- this material is not at the disposal of the public now. It has been rendered unaccessible again, devoid of public control. This blocks the democratic potential of the Snowden disclosures.

Only a very small percentage of those files has been made available to the public so far. A small circle of people decides about that, being able to access, read, analyze, interpret and publish the Snowden files. Those who belong to the small circle of people tend to argue, that this has to do with security reasons. In this sense one can say, that the leaked files have been "secured" in order to prevent bigger harm. There is also the obvious argument, that this method enables the long lasting media narrative to enfold -- a sustaining visibility that some observers identify as the life insurance of the whistleblower. But what if, in the very sense that "data is the oil of the 21st century" -- what if the Snowden files have been privatized by people who try to exploit them according to their own interests?

Recently, there has been some anger directed towards Greenwald, accusing him of "vanity" and "careerism". But apart from that there is no debate about the style of handling this historic data leak. No one asks, whether there is a way to "open" this huge set of data. Considering the current circumstances -- the whistleblower being desperately stuck in Moscow -- it seems far-fetched to come up with such a proposition. Hardly anyone supporting the cause, would want to annul his life insurance plan. Yet, I think that we need to raise the question. Not so much, because actors who work in public service, do not live up to our expectations. No, *among many of us the question lies dormant, because processes in the public service should be designed as inclusive as possible in order to live up to the challenges of this specific obligation.* But in this context they aren't.

Adorno once famously said (I am paraphrasing) "the impact of an art work starts where the intention of the author ends." Building an analogy to Snowden, one may say: The impact of the Snowden files starts to unfold its full potential, where the whistleblower's intention ends (e.g. to work with an exclusive group of people). Many researchers, activists and technology experts (not to speak of other journalists than the "few lucky ones") have a great interest to work with the Snowden files. Actually, it is the very same interest, that was also uttered in the context of the major WikiLeaks-projects a couple of years ago. [0] Imagine the historical impact on sciences, social movements and IT-infrastructures, if those files would become public domain and serve as material to study as well as to learn from.

At the netzwerk recherche summit in Hamburg (the big gathering of the investigative community) I confronted Luke Harding [1], the author of "The Snowden Files", with this issue at the Q&A session of his panel. Prior to my intervention Harding had already hinted at some limitations of the ongoing investigation, alluding to various reasons why those "few lucky ones" are incapable to deal with the analytical challenge in an appropriate manner: "We are not technical experts". Or: "After two hours your eyes pop out". In spite of this, Harding seemed unprepared to reflect the possibility to open the small circle of actors currently dealing with the Snowden files.

To paraphrase his response: Yes, it is a dilemma, that only few people can look at the Snowden files and draw their own conclusions. However, this limitation is a natural result of their very precarious nature (files containing state secrets) and a consequence of the influence exerted by the government. Nonetheless, 'if you have a special project' you could contact Alan Rusbridger and probably get him to provide you with the requested material...

A request for files -- such a request is usually directed towards somewhat obscure organizations as well as corporations and it is usually articulated by the press (deploying the freedom of information law or other legal instruments). The request is usually denied at first. But as the history of investigative journalism shows, including many successful cases: one must fight for one's right to access for information including going to court. Requests for files are an important instrument for the press. But now it is the press itself (respectively some of its representatives) towards which such a request needs to be articulated. This is absurd and prompts many questions, including: To whom are organizations like The Guardian, Washington Post, New York Times, Der Spiegel and actors like Glenn Greenwald accountable? Are they subject to any democratic control?

When I confronted the investigative reporter Seymour Hersh [2] with this issue, I had the tone of a fighter in my ear and statements in mind like "taking into account the massive violations against the constitution, why would any newspaper worry about breaking the law, when considering what to publish and with whom to share their material?"

Hersh said, no, he yelled things like that on his panel at the netzwerk recherche summit. Yet, when I approached him, first face to face after his panel, then afterwards by Email, his stance was a little less "aggressive" than I expected. Hersh on the fact that the Snowden files are locked away by people who actually represent the freedom of speech: "I don't think there is much chance of getting either Greenwald [...] or anyone on the NY Times or Wash Post or The Guardian to open up their files. [...] The reporters and editors will all claim they have done the public a great service etc. [...] Meanwhile they all continue to hoard what they have and share it with no one. [...] Newspapers turn out to be not very interested in spreading the wealth."

I still think a couple of things could be done. Requests for files may seem futile, but they are an instrument and, as the experience shows, one can win the fight. In Great Britain one can consider to complain at the Press Complaints Commission [3] with regard to media corporations exercising exclusive control over the files. In Germany, where this sort of (quasi-monopolistic) control violates the so called Pressekodex [4], you could complain at the Deutscher Presserat [5].

It is at this juncture, that the issue of public interest most strikingly shows a weird discrepancy -- should we all not try to collaborate with each other inside the press and media sphere in order to solve the major problems of our times, rather than suing each other? And it is here, that we feel very directly the deficit of the current model and the need to start to think about a new model for the future. Against this backdrop one could start to work out a model for transferring those specific files (and big data leaks in general) into the public domain -- taking also into account the obvious problems of "security", "government pressure" and Snowden's "life insurance".

All of this should be addressed on an international level, starting in those countries, where the files are currently processed -- in the US, in Great Britain and in Germany. Perhaps it should begin in Germany, where the public interest in the Snowden disclosures is probably the biggest worldwide. The main actors here, including journalists at Der Spiegel and key actors from the hacker scene, are accumulating "cultural capital" (Bourdieu) due to their exclusive access, while taking in-transparent decisions about what is accessible to the public and what is not. In short, there is enough potential here to build a model for open access to big data leaks.

At first glance, there are not too many reasons to be overtly optimistic about that. Eventually "in each of the last three global leaks you had a different problem in dumping all the materials online. So you can't really construct a [global] model on leaks. Each new batch of leaks will have new problems", as Stefan Candea [6], a central figure in the *Offshore Leaks*-project [7], points out. Others active in the field of investigative journalism for many years are also skeptical about

allowing unlimited access. "Featured in the files may be suppliers of information, without knowing, that they were ever involved with a secret service." as Ewan Tarkan* says, a journalist pursuing (under cover) research on issues like the surveillance industry. "In the case of Afghanistan e.g. names of translators or other locals. An example for this would be geheimerkrieg.de [8] -- itself not a leak, but an analysis. Here many names of people were included, who just did normal things like IT-services."

Should we consider this as a blocker to our endeavor? Or as a challenge? Only because major data leaks seem impossible to "regulate", should we not even try to think about it? Looking back at his professional history Tarkan states: "I am strictly against publishing leaks without partially blackened names. In the past there have been several cases, in which the names of people, who had just done simple IT-services, were visible. Their lives are at stake when documents containing visible names are published. At the same time this can't be brought forth as an argument to withhold all the files. As the case of Wikileaks shows, it is possible to remove names from documents before publishing them."

In pursuing this aim, we have to keep in mind, that "it is the choice of the leaker to tell the journalist what to do with the material.", as Candea reminds us. So we need to convince people like Snowden to consider open access to their files. Mabye this is not such a futile endevour when you take into account the fact, that Snowden may not be too satisfied about how his material has been processed so far (as some obeservers assume). In any case we are facing a lot of work. We need to raise the consciousness among whistleblowers and we need to craft an adequat concept for platforms, hat allow open access to their leaks.

First of all any responsible disclosure of leaked source material "should come with information about the whole corpus of documents, as long as this kind of information does not reveal the identity of the leaker." Detlef Borchers, long standing IT-journalist for heise.de, suggests. "This entails, that any informed reader can assess with a sufficient certitude whether the publication by mass media is part of a marketing campaign, or not."

Secondly the public version should be cleared off all names. Yet, who deletes the names? Who has access to that? Who designs the interface in a way, that is also attractive to a broad, non-technical audience? Here we require an entity in charge of programming or control, and with regard to that we need to be "foregrounding the issue of responsibility as central", as Borchers points out, while reminding us: "Consider how many mistakes are constantly being made, e.g. in the German version of the Greenwald book, in which many names of NSA-employees are included while being blackened in the English original."

Thirdly we need to consider, that the files need to be made accessible in manner that allows everybody working with them a certain degree of anonymity -- you don't want the files on your desktop, but in the cloud, at a publicly known location, that is accessible in a secure way. But hosted by whom? For instance a public institution like a library?

Fourthly, the question how to work with the files is central to the model: Are the respective files machine readable? Or do they need to be rendered that way? There are various tools, that will solve that problem, e.g. DocumentCloud [9].

Fifthly you need to understand the language, in which the files are written. Solicit the help of someone, who is fluent, learn it yourself or have your machine do it for you. Data-Journalism tool kits (dispersed online or performed on the ubiquitous DDJ-panels) will help with the ensuing systematization, analysis and "user-friendly" interpretation. Needless to say, any publication would have to provide links to the sources, openly accessible to anyone.

Finally, in the specific Snowden case, you need to make sure, that the whistleblower does not lose his life insurance and consequently his life. "Ed", as supporters passionately call him, has already changed his strategy several times. In the beginning he didn't want to take part in the public debate. Instead he wanted the documents to speak for themselves. Around December 2013 he changed his mind about that and started a series of public appearances. The next big step would be to open access to the files. At least 50% of them. Remember Julian Assange: In his case some files (perhaps a major leak of one of the US banks) remained undisclosed -- in order to back up his

publishing activity. This approach could also work for Snowden.

Is this all our model needs to consider? Probably not. Any feature, whether already mentioned or not, requires in depth scrutiny by the public. For now, we could start by asking: Why is there only one publicly available counter of the Snowden files in the world, maintained by John Youngs Cryptome under the project name *Tally Update* [10]? Why are not actors from within circle of the lucky few providing such a service? Or at least help such a project with fact checking? Why are the Snowden files not handled in a less restrictive manner? Aren't there smarter ways to go about it? And when thinking about public interest: Do we have to make a decision between Snowden's life insurance and open access to the files? Or are there ways to reconcile both concerns? The discussion entails reflections on the foundations of our democracy. It is not the worst moment in history to rethink most of them.

Krystian Woznicki is journalist, cultural critic and founder of berlinergazette.de. This text (CC by nc) has been published in German [11] with an option to join the discussion by writing feedback in the comment section [12]. The Berliner Gazette has published an extensive dossier on the Snowden debate [13]. In this text the name of Ewan Tarkan was changed by the editors.

Links

0. http://berlinergazette.de/wikileaks-nachhaltigkeit-cablegate
1. http://en.wikipedia.org/wiki/Luke_Harding
2. http://en.wikipedia.org/wiki/Seymour_Hersh
3. http://en.wikipedia.org/wiki/Press_Complaints_Commission
4. http://de.wikipedia.org/wiki/Deutscher_Presserat
5. http://de.wikipedia.org/wiki/Pressekodex
6. http://www.icij.org/journalists/stefan-candea
7. http://en.wikipedia.org/wiki/Offshore_leaks
8. http://geheimerkrieg.de
9. http://documentcloud.org
10. http://cryptome.org/2013/11/snowden-tally.htm
11. http://berlinergazette.de/open-the-snowden-files
12. http://berlinergazette.de/open-the-snowden-files/#comments
13. http://berlinergazette.de/feuilleton/dossiers/post-snowden