The Edward Snowden Case and the Morality of Secrecy
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When Edward Snowden decided in 2013 to hand over thousands of classified documents to reporters, he launched a firestorm of criticism aimed at both himself and the US National Security Agency. The NSA’s collection of metadata ended in 2015 as a direct result of Snowden’s revelations. He continues to leak classified documents from his political asylum in Russia. This article uses just war theory, theories of civil disobedience, and Church teaching on resistance to political authority to examine Snowden’s whistleblower decision. It applies the following categories of variables: moral order and the common good; virtue and rights; redress and subsidiarity; and success and proportionality.

On June 6, 2013, The Guardian (a UK newspaper) printed a front-page story titled, “US Orders Phone Firm to Hand Over Data on Millions of Calls: Top Secret Court Ruling Demands ‘Ongoing, Daily’ Data from Verizon.” The article was based on thousands of pages of documents handed over to The Guardian’s reporters by Edward Snowden, a former employee of a US subcontractor to the National Security Agency. The Guardian produced more than 200 articles in its print edition on this story and made Snowden the top story of 2013.¹

Two and a half years later, in the fall of 2015, after Edward Snowden had copied and leaked thousands of pages of documents which were publicized in The New York Times, The Washington Post, Der Spiegel, and The Guardian, the National Security Agency program to gather metadata on the phone calls of Americans was discontinued.² Snowden says that he needed to tell the public the truth about this program.³ His act of resistance resulted in a decrease in American intelligence capabilities, according to National Counterterrorism Center Director Nicholas Rasmussen in testimony to Congress in February 2015.⁴

Edward Snowden faced what he viewed as a conundrum, and he determined that his responsibility to tell his secrets outweighed his obligation to protect those secrets. Although this particular dilemma was unusually grave and publicly significant, Snowden faced a familiar conflict. We can all empathize with the opposing needs: to keep some news (even if truth-
ful) to ourselves so as to protect certain parties (such as loved ones); or to reveal information in the interest of public transparency or the common good. How do we assess these conflicting duties? Snowden was privy to secret information. When we have privileged access to information, we have an obligation to carefully consider what to do with that knowledge.\(^5\)

Was Edward Snowden justified in sharing US intelligence secrets with the world, and if so, did he achieve his goals? To measure justice, we will primarily rely upon the *Catechism of the Catholic Church* insofar as it suggests a structure of moral analysis for other whistleblowers to follow. Indeed, Snowden has been called a whistleblower, a traitor, and a hero.\(^6\) He was honored with various awards for peace and integrity, but he was also indicted for theft of government property and communication of classified intelligence.\(^7\) He is currently under temporary asylum in Russia. The contradictory accolades and criticisms are in part the function of a uniquely polarizing figure, but they also reflect antithetical conclusions about the nature and morality of the intelligence revelations. This article aims to provide specific, time-honored criteria that will help to clarify and resolve these contradictions.

**ACTS OF CIVIL DISOBEDIENCE, RESISTANCE TO POLITICAL AUTHORITY, AND JUST WAR**

To determine the justification for a public revelation of thousands of classified government documents, we may begin by comparing the various ways to categorize Snowden’s action. There are three options for labeling the decision to reveal secret information. The revelation could be considered: (1) an act of civil disobedience in terms of individual rights and the response of civil authorities; (2) an act of armed resistance, which may occur when a citizen determines that the cause is so serious that it can’t be solved with a civil act. Snowden’s revelation was not an act of violence, but the rules seem applicable given the gravity of the national security situation; (3) an act of war, for which just war theory offers a set of criteria. Again, Snowden’s actions were clearly not acts of war per se, but the just war criteria may be helpfully invoked as applicable to similarly grave situations.

**Civil Disobedience**

According to the *Catechism of the Catholic Church*, the justification for acts of civil disobedience is defense of one’s own or other citizens’ rights against abuses of political authority.\(^8\) Edward Snowden broke the law when he decided to reveal the secrets to which he was privy through his job with the government. Some observers would characterize such disobe-
dience as obligatory if the injustice being protested warrants it. An unjust law, most observers agree, can only be opposed with civil disobedience “after careful consideration of the good and evil involved in opposing governmental authorities.”

The *Catechism* specifies the criteria to be used in making this evaluation. A citizen may refuse a government demand if, after examining his conscience, he determines that the demand meets one of the following conditions: (1) it is contrary to the moral order; (2) it is contrary to the fundamental rights of persons; (3) it is contrary to the teachings of the Gospel.

“When citizens are under the oppression of a public authority which oversteps its competence,” Pope Paul VI explained, “they should still not refuse to give or to do what is objectively demanded of them by the common good; but it is legitimate for them to defend their own rights and those of their fellow citizens against the abuse of this authority within the limits of the natural law and the Law of the Gospel.”

In practice, the Catholic understanding of both a higher moral reflection on the duty to one’s conscience and civic obligations to the social order can lead to a troubling tension “between personal rights and sociality.” Catholic teaching suggests that this tension can be resolved by a thorough examination of conscience and weighing of human rights.

**Armed Resistance**

Armed resistance to political authority can be legitimate if all of the following criteria are met: (1) There is certain, grave, and prolonged violation of fundamental rights; (2) All other means of redress have been exhausted; (3) Such resistance will not provoke worse disorders; (4) There is well-founded hope of success; and (5) It is impossible reasonably to foresee any better solution.

Catholic social teaching tells us that not only are we permitted to disregard an unjust law (given certain conditions), but we are also not permitted to obey an unjust law (again, given certain conditions). We have mentioned two options for provoking change to that law: nonviolent resistance and armed resistance. There is a significant moral barrier to cross from one to the other. The difference between the two options comes from serious or repeated infringement of rights. Armed resistance must be a last resort.

**Just War**

Finally, the criteria of the just declaration of war also seem appropriate here despite the avenue of redress via violence rather than civil acts. Even if our discussion in this case (whistleblowing) does not involve lethal
force, perhaps the just war criteria could apply: (1) just cause; (2) legitimate authority; (3) right intention; (4) probability of success; (5) proportionality; (6) last resort.\textsuperscript{15} With the exception of the second, it seems that all of these tests could apply as well to the decision of one person to engage in whistleblowing.

War is a specific kind of human interaction in which individuals act to secure and ensure a future peace for their families and countrymen. The just conduct of war differs from the decision to embark in war, and men are obliged to work for the elimination of war altogether.\textsuperscript{16} Because of the ultimate reckoning, any action today must be considered in terms of both its immediate and long-term consequences. As such, the decision to embark on whistleblowing could be considered, metaphorically, an act of war and certainly should not be entered lightly.

It is incumbent upon the whistleblower to consider that their privileged position is a gift, but a limited one. Anyone who has worked in an environment of sensitive information knows that they are not privy to all parts of the operations or the “big picture.” It is that very stovepiped structure that erects a wall to protect some secrets from all viewers. Without access to all parts of a secret operation, it is entirely possible that a whistleblower does not know the reason for what might first appear to be an objectionable operation. That possibility must give a whistleblower pause; they must consider that their evaluation of just cause needs a trusted second opinion and objective assessment.

\textit{Categories of Moral Analysis}

Using the principles contained in these three sets of criteria, we can formulate four categories of moral analysis: Moral Order and Common Good; Virtue and Rights; Redress and Subsidiarity; and Success and Proportionality. Within these are four more specific benchmarks: (1) Right intention—to protect the moral order in keeping with the truths of the Gospel and the natural law; (2) Just cause—grave, certain, and prolonged violation of the fundamental rights of persons; (3) Last resort—all other avenues of redress have been found wanting and there is no better solution; and (4) Proportionality—the public revelation of government secrets is proportional to the just cause, meaning that it is both likely to succeed and not likely to cause a disorder that is worse than the violation it intends to rectify.

Using these categories, we can derive specific rules for the decision to violate secrecy obligations and publicize government wrongdoing.
Before moving to fuller descriptions of our categories, it is necessary to lay some additional groundwork regarding government authority and the common good. The definition of government wrongdoing must be considered with respect to the public good, human rights, and individual responsibilities, and the Church has to play a role in the definitions of justice, rights, responsibilities, and freedom.\[^{17}\]

The common good is defined as “the sum total of social conditions which allow people, either as groups or as individuals to reach their fulfillment more fully and more easily.”\[^{18}\] The common good includes respect for individual human beings, social well-being and development, and peace.\[^{19}\] These are the essential duties of the office of authority. Thus government has at least one fundamental duty, which begins with protecting the dignity of the human person. When that fundamental right is violated, the desire to fix that offense is a right intention.

However, to determine morality, we must also examine the object chosen and the circumstances of the action in addition to the intention of the act. There are certain acts that are always wrong because the choice includes a moral evil. Reason and a specific examination of conscience must keep in order good and evil.\[^{20}\] In its most expansive and useful definition, reason incorporates both the common idea of earthly knowledge and the recognition of the intellect as a gift from God.\[^{21}\]

The Church teaches that authority is necessary in any social structure. Without it, there is anarchy. Thus a legitimate and recognized authority has the power to make governmental decisions. According to the Catechism, we must obey all legitimate, just authorities—not only the ones that conform to our own opinions or will—so long as those authorities obey established laws and the moral order.\[^{22}\] Unjust laws undermine human dignity, and civil disobedience is allowed when such laws are enacted. Unjust laws must be addressed in a morally good way with a morally good objective and morally good means. That is the right intention to protect the moral order. The freedom of speech is not absolute, and it must always “search for the truth.”\[^{23}\] In a pluralistic society, there is often a “middle-ground” position that will be supported by a majority of the population and accepted as fact or truth. But a genuinely reasonable approach recognizes that such consensus does not guarantee truth; our response to civic problems must consider God-given truth.
VIRTUE AND RIGHTS

Virtue is a disposition to do good.\textsuperscript{24} Virtue can facilitate cooperation and amity, but it must be ordered to serve truth.\textsuperscript{25} Truthfulness is a key component of virtue. It is the “just mean between what ought to be expressed and what out to be kept secret: it entails honesty and discretion.”\textsuperscript{26} The purpose of speech or any kind of communication must be to serve both truth and sociality. But truth is not determined by the state; it is objective and has its origin in God. Tension between the two aims of truth and sociality will often be resolved in the public square on the side of sociality, with pluralistic demands for social cooperation prevailing over the demands of truth.\textsuperscript{27}

We must also consider the impact of a revelation of secrets, even in civil disobedience. Using the admonition against gossip as a model, we must measure the harm that can come from the revelation of an insider’s knowledge. The \textit{Catechism} says we must not reveal confidential information other than in exceptional cases. Indeed, “the right to the communication of the truth is not unconditional [and] . . . no one is bound to reveal the truth to someone who does not have the right to know it.”\textsuperscript{28} Thus we know that there is no automatic responsibility to divulge information. It requires thoughtful and thorough analysis.

Prudence is the application of virtue, and although citizens may have a government-given right to freedom of speech and a consequent custom to transparency in politics, all rights come with responsibility.\textsuperscript{29} The \textit{Catechism} tells us that “the duty of obedience requires all to give due honor to authority and to treat those who are charged to exercise it with respect . . . so long as it act[s] for the common good.”\textsuperscript{30} So, individual citizens are charged with some duty to the government so long as the government is protecting its rights in the common good.

For example, the responsibility of a secret holder is to keep the secret, especially if it is learned in a professional capacity.\textsuperscript{31} The \textit{Catechism} says that “confidential information given under the seal of secrecy must be kept, save in exceptional cases where keeping the secret is bound to cause very grave harm . . . and where the very grave harm can be avoided only by divulging the truth.”\textsuperscript{32} Further, we must seek a balance between an appropriate concern for private lives and the common good. Privacy derives from the common good and the love of neighbor. Respect for the individual person comes first, and the good of each individual is intimately tied to the common good, which is in turn dependent on the moral order.\textsuperscript{33} Thus the moral order has to be preserved by both government and individuals.

According to Pope Saint John XXIII,
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[I]t follows that in human society one man’s natural right gives rise to a corresponding duty in other men; the duty here, then is to recognize and respect that right. Every basic human right draws its authoritative force from the natural law, which confers it and attaches to it its respective duty. Hence, to claim one’s rights and ignore one’s duties, or only half fulfill them, is like building a house with one hand and tearing it down with the other.34

Fundamental human rights are based on the dignity of human beings as given by God. These rights are not given by government. They are written into the natural law. They are universal, inviolable, and inalienable.35

In *Pacem in Terris*, Pope Saint John XXIII lists these fundamental human rights as: right to life, moral and cultural rights, the right to worship God, the right to choose freely one’s state of life, economic rights, the right of meeting and association, the right to emigrate and immigrate, and political rights.36 As such, government has the responsibility to ensure rights (especially the right to life) and encourage promotion of the common good (especially among public servants).

**REDRESS AND SUBSIDIARITY**

The doctrine of subsidiarity entrusts the responsibility for individual needs to the “lowest level” possible. “The principle of subsidiarity protects people from abuses by higher-level social authority and calls on these same authorities to help individuals and intermediate groups to fulfill their duties.”37 Thus the public authority promotes the common good and guarantees conditions that protect individual responsibilities and liberties.

According to the doctrine of subsidiarity, the individual, the family, and the community are unlikely to be able to solve national problems such as terrorism, war, or international crime. Thus the avenue for redress should be through the same level of order. Those avenues must be exhausted before resorting to civil disobedience, which need not give rise to violence or public disorder. In *Civil Disobedience*, Henry David Thoreau argues that individuals can express displeasure without encouraging anarchy.38 Nonetheless, the rule of action remains “last resort.” The decision to engage in civil disobedience follows the exhaustion of all other avenues of redress.

Indeed, other avenues of redress may not respond to individual attempts to right a wrong, and subsidiarity cannot be used to justify the maintenance of an immoral social order. The social order does demand protection from its citizenry so long as it protects fundamental rights.39 Thus civil disobedience cannot be chosen if it would destroy a legitimate moral order in the cause of some other less fundamental objective.
SUCCESS AND PROPORTIONALITY

In light of the grave consequences of violence, just war theory and armed resistance consider the probability of success. In the cases of whistle blowing or civil disobedience, the gravity of the situation may be diminished, but even if the damage of the revelation is measured only in non-violent terms, the effects may still be serious. Thus weighing costs and benefits requires rational determination of success.

An act of violence or incivility in pursuit of some moral goal must not cause more harm than the evil to be eliminated. John Hittinger explains:

This pertains to the principle of proportionality; it is therefore a judgment call. It should force a nation to continually reassess its priorities and its sense of what is necessary. But as long as defense remains as a valid good of the nation, it equally requires an honest assessment of what means are necessary given military and political factors at work in the international community. Thus just war theory helps us determine the importance of future harm. Relatedly, the immediacy of the threat from the information must be considered. If there is an imminent danger, our obligation to stop it overrides further considerations. Rash judgment must be avoided. Respect for the reputation of individuals demands a thorough exercise of good judgment. Indeed, if the information revealed could harm the reputation of another party, one is not obliged to reveal the information.

Just war theory warns against creating a worse disorder by conducting a violent war. Laying aside the elements of violence and war, we can use just war theory to evaluate a grave and lasting act of civil disobedience or whistleblowing. One must consider the consequence (intended or not) of revealing classified and damaging information. It is incumbent on an individual making the decision to attempt to foresee both the damage that will result from the act of disobedience and the damage that will result from obedience. While some unintended consequences may be unavoidable and are arguably morally acceptable, the anticipated harm must not outweigh the benefit of the action.

THE EDWARD SNOWDEN CASE

As a contractor with the National Security Agency (NSA), Edward Snowden had access to documents of national security policy. He copied 1.5 million documents and had released 200,000 of those documents since June 2013. They contained details concerning (1) How the NSA collects intelligence information, to include the countries and companies with which it cooperates, and the computer encryption programs which it
has broken; (2) What the NSA collects, to include specific targets in Europe counting certain leadership among them; (3) What kinds of data the NSA collects, to include cell phone metadata, computer search engines, domestic email metadata, and data transmitted over other servers and routers; (4) What intelligence sharing relationships the NSA has with foreign intelligence services and what they are collecting and doing around the world; (5) What priorities are placed on signals intelligence in the Obama administration, to include how the NSA and the Intelligence Community is structured and funded; (6) How the NSA attacks other agencies, companies, and countries with malware and hacking.\(^{43}\)

In the summer of 2013, Snowden traveled from Hawaii to Hong Kong to meet with journalists Glenn Greenwald and Laura Poitras. Afterward, he planned to travel to Ecuador but was waylaid in Russia when his US passport was rescinded. He was granted temporary asylum by Russian authorities in August.\(^ {44}\) As of this writing, he continues to leak NSA documents and to comment on national security.

**Moral Order and Common Good**

Snowden argued that the 2001 Patriot Act violated the common good. His argument rests on the assumption that privacy is integral to the common good. Dueling opinions from the federal courts tilted in Snowden’s favor in 2015. The Second Circuit Court of Appeals in May 2015 ruled that the collection of metadata was illegal without affirmative authorization, which the USA Patriot Act in 2001 did not allow, but it did not rule on whether the program violated the Constitution. The Foreign Intelligence Surveillance Court had previously determined that the collection of metadata was legal under the Patriot Act.\(^ {45}\) In November 2015, just before the NSA metadata collection program expired, the US District Court for the District of Columbia ordered the NSA to stop collecting phone records. Judge Richard Leon commented that the program was “most likely unconstitutional,” though his ruling does not hold the weight of an official ruling.\(^ {46}\) In the same month, Judge William Pauley ruled that program did not violate the law.\(^ {47}\) The legal wrangling reveals opposing viewpoints on the legality of the NSA’s actions and the legality of Snowden’s actions as well. These differing opinions reflect uncertainty as to whether privacy rights were violated.

Snowden argues that the violation of privacy in the metadata collection program is immoral. The courts do not claim the competence to decide what is moral or immoral. Thus his argument bears no direct relationship to what the courts might hold. In light of Catholic morality, is Snowden’s claim accurate?
The morality of an act depends on the object, the intention, and circumstances. The NSA metadata program seems to reflect a right intention (protection of the country) and the collection takes place within appropriate circumstances (threats to national security in light of massive terrorist attacks). It is the object chosen, however, that could be considered questionable. Are the details contained in Snowden’s leaked documents (to include the collection of metadata, hacking foreign governments and spying on foreign governments) immoral? Collection of data and spying are allowed. According to subsidiarity, espionage would be a properly governmental responsibility. However, “the principles of solidarity (acting together for the common good) and subsidiarity (respect for the other elements of society, such as the family or the church, to operate freely in their own spheres) need to be kept in balance.”

To take one possibility, hacking and maliciously destroying a legitimate government is questionable, but if the hackers’ target is conducting immoral acts (to include governments that do not respect human dignity), the picture becomes murkier. Is it permissible to attack a foreign government if that government acts contrary to the moral law? It would seem possible to justify such activity based on an international and transcultural moral consensus. According to Michael Walzer, man’s understanding of morality is so common and sufficiently stable that shared judgments are possible. Again, just war thinking seems relevant: armed force is not to be rejected based on its presumed, inherent immorality; declarations of war or acts within war are to be judged according to the classic criteria listed above. “It depends on who is using it [war], why, for what means, and how.”

**Virtue and Rights**

Does the motivation for Snowden’s revelations meet the threshold of certain, grave, and prolonged violation of fundamental rights? Snowden’s argument is based on his belief that the NSA’s actions were illegal and immoral. From Snowden’s emails, tweets, interviews, and other communications we know that he believed the surveillance program was invasive, and he wanted to reveal the mass collection program to the public. He said that the metadata program was “destructive, invasive, and illegal.” (This is Snowden’s own opinion, of course, which is open to debate.) Following his own analysis, he said that he felt a responsibility to reveal the breadth and depth of the mass collection program. If privacy is considered a fundamental right of persons, then yes, the metadata collection program seems to fit the criteria of grave, certain, prolonged violation of fundamental rights. To clarify again, however, the metadata program did not
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collect content; it collected numbers. It can be argued that the content of the phone calls were still protected through this program.

Fundamental rights are based on respect for human dignity, and the protection of privacy could fall into that category. “Charity and respect for the truth should dictate the response to every request for information or communication. The good and safety of others, respect for privacy, and the common good are sufficient reasons for being silent about what ought not be known or for making use of a discreet language.” Thus violation of privacy could be considered morally wrong, but not necessarily a violation of a fundamental right. Whether privacy is considered fundamental is open to differing prudential judgments.

On the application of virtue to Snowden’s civil disobedience, was Snowden’s revelation prudent? Did Snowden apply honesty and discretion? Snowden has said that he carefully considered his decision to reveal secret information, and he felt that he had no choice but to go to these extreme measures. Although we are not privy to all of the steps he took behind-the-scenes, we do know that he stole secret documents from the National Security Agency, identified himself as a whistleblower, and went to Russia. We also know that he met with Russian officials. Frants Klintsevich, a Kremlin politician, said that Snowden shared some of that secret intelligence directly with Russia, not just with reporters in Hong Kong. Perhaps over time, we will be able to assess his prudential judgment more fully, but as of early 2017, we know that his revelations had both a whistleblower effect and a treasonous effect. It is unclear whether that was his intention.

Was Snowden’s revelation truthful? The information is accurate, thus truthful. The documents that he released were, indeed, official NSA documents. However, was everyone entitled to the disclosure of this truth? Snowden intended to give this information to the public because he believed that the information was harmful and the public had a right to know.

Snowden says that he avoided grave harm to privacy in divulging his information. Certainly, details on private lives were not broadcast publicly by the NSA metadata program, but the information was used to detain suspects of terrorism or other national security violations. Snowden admits that the NSA collected metadata, not content from credit card transactions, phone records, Facebook, GPS locations, and private businesses. Metadata can be revealing, but it is not the same as content. Did knowledge of cell phones, computer, phone calls, and other data cross the threshold of criminal activity; was it a violation of privacy rights? In charity, we might presume that Snowden thought that he had a just cause, but without
knowing more intimately his conscience, we still cannot judge definitively Snowden’s application of prudential discretion.

**Redress and Subsidiarity**

Did Snowden exhaust all other means of redress available to him? Snowden’s leaks bypassed the institutional accounting inherent in our balance of power. Snowden says that he went to the General Counsel of the NSA and was dismissed.\(^{61}\) We don’t know the results of that conversation. We also don’t know what would have happened if he had contacted another authority in government. If he had done so, he could have claimed official status as a whistleblower with legal protections.\(^{62}\) He did not do that.

According to the Intelligence Community Whistleblower Protection Act of 1988, employees—including contractors—of the NSA have a specific hotline to call and procedures to follow when they are confronted with illegal information and wish to report it. Although the ICWPA does not offer specific statutory protection against reprisal, there are Department of Defense whistleblower protection acts that are intended to strengthen and improve protection for the rights of Federal employees, to prevent reprisals, and to help eliminate wrongdoing within the Government by—1) mandating that employees should not suffer adverse consequences as a result of prohibited personnel practices; and 2) establishing . . . that while disciplining those who commit prohibited personnel practices may be used as a means by which to help accomplish that goal, the protection of individuals who are the subject of prohibited personnel practices remains the paramount consideration.\(^{63}\)

Snowden claims that he did not go through whistleblower channels and embrace the official designation because he believed he would not be protected from reprisals.\(^{64}\)

Does the concept of subsidiarity apply to this case? The responsibility of national institutions such as the NSA to address terrorism is consistent with Catholic teaching on the role of the state. The escalation of the avenue of redress to a public revelation shows Snowden’s faith in transparency. Did he need to elevate the avenue of redress beyond his own contractor, the NSA, the director of the intelligence community, the Inspector General, the White House, the Justice Department, the Congress, the judiciary? Was there no solution better than going public with his information?

He argued that the public’s right to know what its government is doing is so fundamental that it trumped his own obligation to protect those rights. We know that Edward Snowden accessed and copied classified documents while working as a contractor for the US government. We also
know that by doing so, Edward Snowden violated the terms of his security clearance. We further know that he shared those documents with persons who did not have clearances to see them. It is both stated and implied that individuals with security clearances have an obligation to protect the classified information to which they have been granted privileged access. As such, Snowden had an employee obligation to protect the NSA’s mass collection program—an obligation that he violated by going public with the information.

Is Snowden a leaker, a hacker, or a traitor? He is skeptical of secrecy, and argues that it was unnecessary and damaging in this case. Snowden said that the revelation of this information was necessary to preserve transparency. The government is obliged to inform its citizens of its activities in the protection of the moral order. As noted above, the Catechism permits revealing confidential information only in exceptional cases. How exceptional was this case? The breadth of the NSA collection and hacking programs is remarkable, but the practices of intelligence collection and covert action are not unusual. The heavy-handedness that forced certain companies to share access with the NSA does seem out of the ordinary. Does it cross the threshold of exceptional that the NSA may violate the law? Yes, it does. Old collection programs were discontinued as a result of the revelations. Lawsuits against various phone and internet companies showed that some members of the public were surprised and determined to stop the large vacuum of data, and various reform bills were passed.

Success and Proportionality

How would Snowden have defined the success of his revelation? As early as December 2013, when the former NSA contractor handed over his last document of leaked information, he declared his mission complete. He revealed a global surveillance system which shocked most Americans and Europeans. According to an April 2015 poll by the ACLU, most Americans see Snowden in a negative light and most Europeans consider him to be a hero.

On November 29, 2015, The Guardian took credit for the results of that action when the NSA ended its bulk collection and handling of American phone metadata. The USA Freedom Act, passed by Congress on June 2, 2015, removed authorization for the NSA to collect and hold bulk phone information. The Guardian called it “an important victory for the whistle-blower Edward Snowden.”

In a September 2016 Rasmussen Poll of 1,000 likely voters, 15 percent of likely voters believe Snowden is a hero; 30 percent say he is a traitor who endangered lives, and 48 percent believe he is somewhere between a
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whistleblower and traitor. Snowden has said that the public benefited from his actions, and 25 percent of voters in the poll believe he should be pardoned. However, 43 percent disagree with his self-described benevolence, and say he should be tried for treason if he returns to the US; 32 percent have not decided. 71

The Guardian correctly points out that there is a connection between the NSA program and the Snowden leaks. Thus his hero status in some eyes is a direct result of the end of the NSA program. Aside from the metadata collection, Snowden’s documents showed that the NSA collects information on foreign governments and leaders—including friendly ones. Critics would consider the end of a program that surveils American friends a success. If his goal was publicity and the dismantlement of the program, Snowden was successful. If his goal was long-term transparency, his success is questionable. The “reforms feel like gestures” according to one privacy advocate as quoted on the PBS website in February 2015. 72 Indeed, the government may still claim some national security justifications for the collection of private data and may gather data without a warrant although there are some time restrictions placed on the data.

Did Snowden’s revelation cause worse disorders? According to National Counterterrorism Center director, Nicholas Rasmussen, it did. “Due to the Snowden leaks and other disclosures, terrorists also have a great understanding of how we seek to conduct surveillance including our methods, our tactics and the scope and scale of our efforts. They’ve altered the ways in which they communicate and this has led to a decrease in collection.” 73

Snowden’s objective was transparency, and going public was the most transparent solution possible. It remains to be seen whether going public was the most likely means to achieve his long-term goal (assuming we take his stated goal at face value) of protecting privacy rights and the Constitution.

CONCLUSIONS

Edward Snowden’s public revelations of questionable and potentially illegal practices by the National Security Agency had widespread consequences. The activities to which Snowden objected were exposed, and the reputation of US intelligence agencies was damaged. Arguably, that may not be a bad thing. In the words of one commentary, “US intelligence agencies are meant to be smart. Mr. Obama now knows how dumb they can be.” 74 Thus, the publicity around Edward Snowden revealed some serious weaknesses in the intelligence community which one might rea-
reasonably hope are being corrected in some dusty and hidden corridors of Washington to prevent any similar incidents in the future.

But that “behind the scenes” fixing is what Snowden reportedly wanted to stop. He wanted transparency. His stated cause was the stoppage of the collection of private data. He achieved that. His stated intent was to reveal the data. He achieved that. Was his cause just? Was his intention right? The key point here is whether or not the NSA’s collection violated fundamental rights, a point which remains arguable and undetermined.

Did Snowden exhaust all avenues of redress in proportion to the violation that he wanted to reveal and fix? We don’t know. Did he cause a worse disorder than the violation of privacy rights by the NSA’s program? If we accept that America’s enemies gained knowledge they did not have before, then yes, he did cause a worse disorder. If we acknowledge that the perverse effect of public revelation is improved collection and increased secrecy, then a worse disorder can be avoided. We know that Snowden did great damage to the intelligence community. This kind of damage can only be justified to avoid an even greater harm. It is not at all clear that the harm he supposedly sought to avoid was less consequential than the certain harm that he caused.

Notes


2. On November 28, 2015, the congressional authority to collect metadata (derived from Section 215 of the Patriot Act passed in 2001) expired. As such, the National Security Agency will no longer collect and hold information about phone calls. Metadata summarizes basic information about other data. In the case of phone calls, it includes information about when a call was made, who was involved, and where the call was made, without including the content of the call itself.


5. Of course, I speak here of the obligation for most people, not priests. A priest who is given information under the seal of the confessional has only one obligation: keep the secret even if it may be of a criminal nature.

6. This paper will use the term whistleblower, as it is somewhat neutral in terms of right and wrong and is far less cumbersome than “revealer of docu-
ments.” However, the term whistleblower implies certain rights and obligations in the legal system, which have not been given to Snowden. Because he remains out of the United States, the issue is unlikely to be resolved. A September 2016 US House investigation concluded that Snowden is not an official whistleblower. Although he claimed that his main objection to the NSA program related to privacy, the documents cover a wider range of issues. Further, the investigators call him a fabricator and an exaggerator. US House of Representatives, “Executive Summary of Review of Unauthorized Disclosures of Former National Security Agency Contractor Edward Snowden,” September 15, 2016. Accessed on October 19, 2016, at http://intelligence.house.gov/uploadedfiles/hpscisnowden_review_-unclass_summary-_final.pdf.

7. To be specific, he was charged with three felonies in June 2013. Two of the charges were brought under the Espionage Act. He was awarded the Sam Adams Award in 2013 and the Right Livelihood Award and Stuttgart Peace Prize in 2014.


11. CCC 2242.


14. CCC 2243.


18. CCC 1906.

19. Christiansen, “Civil Amity and Civil Protest.”

20. CCC 1750.


22. CCC 2242.


24. CCC 1833.
25. Christiansen, “Civil Amity and Civil Protest.”
26. CCC 2469.
28. CCC 2488, 2489.
30. CCC 1900, 1902.
32. CCC 2491.
33. The moral order is an objective norm derived from natural law in which right reason is immutable and eternal. The end does not justify the means. A morally good act must be good in terms of both the objective and the circumstances.
41. CCC 2478.


48. CCC 1750.

49. Although the Catechism does not directly address espionage, it seems that just war theory and the strict conditions for legitimate defense could be considered.


51. Similarly, the prescription of stopping an action that is contrary to the Gospel also seems inapplicable in this case.


55. CCC 2489.


60. Greenwald, MacAskill, and Poitras, “Edward Snowden.”

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65. As anyone who has applied for a security clearance knows, this is a long, involved process. Clearance is not simply granted to anyone who would like to have it.


74. Edward Luce, “Edward Snowden Has Done All of Us a Favor—even Barack Obama,” *Financial Times*, November 3, 2013. Accessed on October 19, 2016, at https://www.ft.com/content/2b36c94e-42e1-11e3-8350-00144feabdc0. Further, “Mr Snowden has also reminded us that there is more at stake over America’s sprawling data intelligence complex than hunting terrorists. Washington has done a good job of preventing big attacks on the US homeland since the terrorist attacks of September 2001. Both George W Bush and Barack Obama deserve credit. Both also deserve blame for having over-learned the lessons of 9/11. US intelligence does not have a particularly stellar history. It has a tendency to bungle covert action and to miss what is coming—from the Bay of Pigs debacle in Cuba to the World Trade Center attacks. There is also its extraordinary litany of domestic abuses exposed by the Church committee in the 1970s.”