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Review, Windows into the Soul: Surveillance in an Age of High Technology

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Review, *Windows into the Soul: Surveillance in an Age of High Technology*, by Gary T. Marx

Reviewed by Sue Curry Jansen

Windows into the soul: Surveillance in an age of high technology. Chicago: University of Chicago Press, 2016 / 404 pp. / ISBN 978-0-226-28588-7 (hardback), 9780226285917 (paper), 9780226286075 (ebook) / <http://press.uchicago.edu/ucp/books/book/chicago/W/bo22228665.html>

No review can begin to do justice to this grand synthesis of a lifetime of critical social science research on surveillance. *Windows into the Soul* is not a compilation of past publications, but rather a fresh reappraisal of surveillance studies.¹ Reportedly twenty-five years in the making, the original manuscript was twice as long. Even though the book is tightly organized and readily accessible to non-specialists, its bounty could not be contained within its ample covers. So the interested reader is periodically referred to the publisher's website for relevant selections deleted from the manuscript. There she not only discovers further textual enlightenment, but also a virtual museum of fascinating artifacts collected during Marx's long engagement with the topic, including a display of visual representations of surveillance, an archive of song lyrics evoking surveillance, and much more. Marx's substantive footnotes similarly engage and reward.

Marx dresses his encyclopedic quest in sharply crafted prose that has a strong but "humbly skeptical" voice full of wit and wisdom, which informs, surprises and intrigues as he culls examples and insights from sources ranging from Shakespeare to Superman. From the sociological pantheon, Marx

chooses Erving Goffman, Max Weber and to a lesser extent Georg Simmel as his intellectual ancestors. The book's title is a play on Queen Elizabeth's sixteenth century declaration that she did not wish "to make windows into men's hearts and secret thoughts." It is divided into four parts: (I) conceptualization of the field, (II) social processes involved in surveillance including resistance and counter-resistance, (III) cultures and contexts of surveillance practices, and (IV) ethical and policy questions raised by surveillance. Marx cautions general readers that they may want to skip Part I, which provides conceptual clarifications for social science surveillance research. I recommend ignoring his advice. At least give the opening chapters a careful skim: much of the content is too good to miss: carefully chosen epigraphs, incisive insights, and compelling visuals, lists and charts that counter the occasional dives into deep waters.

Marx defines surveillance broadly as "regard for or attendance to a person or factors presumed to be associated with a person." That attention entails gathering some form of data related to the subject of the surveillance, whether individually or as a member of a social category. He distinguishes between traditional surveillance, which relied on the unaided senses and was associated with preindustrial societies; and the new surveillance, which involves "scrutiny of individuals, groups, and contexts through the use of technical means to extract or create information." His primary focus is on the new surveillance, especially to the recent systemic growth of softer forms, which may be remote, automatic, largely invisible and/or voluntary. A crucial feature of contemporary surveillance is its connectivity: the capacity

to combine data sets to produce the much vaunted assemblages of big data. Marx maintains, "the power of governmental and private organizations to compel disclosure (whether based on technology, law, circumstance, seduction, or deception), and to aggregate, analyze, and distribute personal information is a defining attribute of our time."

Contrary to what he sees as the rhetorical excesses of surveillance utopians or dystopians, who he refers to collectively as "surveillance essayists," Marx — ever the sociologist — develops an empirically grounded conceptual framework based upon "analytic induction."² He begins with a vast number of diverse cases and builds organizing concepts from them. Unlike the Foucaultians (although not always Foucault himself), who reductively equate surveillance with dominance and control, Marx's method leaves him suspended between "enemy spies and loving parents," occupying the middle ground that most dystopian abandon. While he readily acknowledges that surveillance is frequently about control and domination, he also recognizes that it can be neutral or positive. By contrast, the dystopian presumption of hierarchy fails to capture the full range of empirical cases. For example, it ignores *sousveillance*, watching back or watching from below --a form of vigilance that is also valorized by feminist and subaltern standpoint epistemologies [my example, not Marx's].³ Another limitation of the unidirectional approach is that it fails to recognize that while surveillance can violate privacy, it can also be used to protect it. Channeling Goffman's perspective on total institutions, Marx observes, Panoptic systems have "ironic vulnerabilities and

Kafkaesque absurdities. Albert Camus and Woody Allen, not to mention Sisyphus, are always waiting in the wings for an entry..."

Marx makes an unorthodox, but not unprecedented, methodological use of satire. Based upon Weberian "ideal types", Marx constructs a series of quasi-fictional narratives, involving a work organization, a social movement to protect children, a voyeur, and a surveillance entrepreneur.⁴ They are imagined but realistic composites, that are plausible; however, they are extreme exemplars as no individual case would be likely to draw on the full range of available surveillance tools that these cases deploy. Marx describes them as both "docudramas and mockudramas." He makes a strong case for the instructive lens this approach provides, but recognizes that it is vulnerable to criticism. Yet, he is in distinguished company here, and not just Weber's. Although Marx doesn't claim his company, a century ago Thorstein Veblen, the maverick economist and sociologist, also used satire to illuminate social behaviors in his social science classics, *The Theory of the Leisure Class* (1899) and *The Higher Learning in America* (1918).

Marx argues that surveillance must be judged based upon the legitimacy of the expectations of the institution or organization imposing it. There should be public input about its desirability and objectives. Here he invokes a normative standard, which he describes as the most important value in democratic societies: "the Kantian idea of respect for the dignity of the person and respect for the social and procedural conditions that foster a civil society." Under the auspices of this standard, some essential questions that must be posed in assessing the legitimacy of surveillance are: Why surveil-

lance?’ What information is sought? What is the stated objective? Are their less visible goals? How might the goals of surveillance be linked to others institutional or organizational goals? What unintended consequences might be anticipated?

Marx acknowledges that it is difficult to assess goals because they can be multiple, competing, hidden, elusive, change over time, have unintended harmful or desirable consequences, and more. Consequently awareness of the complexity and difficulty of identifying goals should countenance caution in making categorical claims. Means are, however, easier to assess. In the penultimate chapter, Marx offers an indispensable set of guidelines for interrogating the ethics of surveillance. Framed as questions, they address: (1) the initial conditions, public policies, procedures and capabilities involved in adopting surveillance; (2) means; (3) goals; (4) relations between ends and means; (5) data collection and analysis; (6) harmful consequences for subjects; (7) rights and resources for subjects; (8) consequences for agents and third parties; (9) data protection and review and the ultimate fate of the data collected. If the surveillance satisfies the Kantian norm, implicit in these questions, Marx would consider it legitimate and ethical.

To ask what is missing from this virtuoso performance borders on the ludicrous, but it is the reviewer’s duty. Most notably absent is a roadmap that can deliver us to a place where institutionalizing the Kantian moral mandate is not only desirable, but possible. Although Edward Snowden receives only an incidental reference in the book, his 2013 whistleblowing revealed levels of mass surveillance by the U.S. National Security Agency (NSA) that

grossly violate the democratic norms Marx outlines. Snowden's files also exposed extensive corporate cooperation in NSA surveillance. Some notable results of the revelations: (1) the U.S. public was divided about whether Snowden was a patriot or traitor; (2) the U.S. government issued a warrant charging Snowden with espionage; and (3) when Admiral Michael Rogers assumed leadership of the NSA in 2014, he announced that his primary reform initiative for the agency would focus on public relations, not on substantive changes in surveillance policy or practices. If government is resistant to reform, corporations, which have built their business models on monetizing surveilled data, would be intractable.

This does not diminish Marx's achievement, but it does mean there is more work to be done. Marx has proposed a laudable normative standard for democratic surveillance, much as Jurgen Habermas has developed one for democratic communication. They provide platforms for critics and activists to call out violations of democratic ideals.

Describing himself as neither a technophile nor technophobe, Marx displaces "Foucault's unsafe smiles" with an intermediate position that assumes that under some conditions, agents have a right, even a duty, to undertake surveillance, but to do so responsibly and with accountability. He also maintains that the subjects of legitimate surveillance have obligations to conform to its tenets just as they have rights not to be subjected to forms of surveillance that do not meet the Kantian standard. With characteristic rhetorical verve, he summarizes his position with lines from Leonard Cohen's "Anthem" (1992):

Ring the bells that still can ring
Forget your perfect offering
There is a crack in everything
That's how the light gets in.

Like the Foucaultians, Marx recognizes the complexities of language, knowledge, and the dangers of social domination and control. He embraces a sociology of knowledge perspective, but despite acute awareness of "the cracks in everything," he refuses to surrender to dystopian determinism or postmodern cool. His measured sociological approach - his methodology or "metamethod" including its "moral mandates" - offer a vigorous defense of "the hallowed ideals of the Renaissance and the Enlightenment regarding the consequences of seeking truth and social betterment" - ideals that are under unprecedented attacks today.

- 1 Past publications can be found at <http://www.garymarx.net>
- 2 Jack Katz, "On the rhetoric and politics of ethnographic methodology," *Annals of the American Academy of Political and Social Science* 595, 1 (2004): 280-308.
- 3 On *sousveillance*, see Mark Andrejevic, *iSpy: Surveillance and power in the interactive era*. Lawrence: University of Kansas Press, 2007.
- 4 Though he cautions they are not "science fictions."