

**MEPDEV 2<sup>nd</sup>: 2016**  
**Central & Eastern European LUMEN International**  
**Conference - Multidimensional Education & Professional**  
**Development. Ethical Values**

**THE RIGHT TO KNOW: THE WHISTLEBLOWER DEBATE**

Angela Stănescu (a)\*

\*Corresponding author

(a) Valahia University of Târgoviște, Târgoviște, Romania, [angelastanescu@yahoo.com](mailto:angelastanescu@yahoo.com)

*Abstract*

In the wake of 9/11, with the ongoing *War on Terror* and the constant threat of terrorism, the legal deterrents applicable to the press liberties warranted by the Fifth Amendment of the United States Constitution are seen as more justifiable than ever. There are, however, many voices denouncing the strengthening of an extended system of state sanctioned surveillance and control considered to infringe upon these elemental freedoms. The so-called whistleblowers, brought to the fore of public debate by the revelatory project of Julian Assange's *WikiLeaks*, reclaim their right to uncover the truth about governmental practices that infringe upon the citizens' fundamental liberties and rights or the about the occult rationales of certain political, economic or military decisions. Whistleblowers who release classified documents pointing to allegedly unorthodox dealings of government have generated a worldwide debate, residing in the clash between two opposing views – on the one hand, there are those who condemn such leaks as treacherous acts which should be prosecuted accordingly, while others defend them in the name of the right to free speech and information. This paper examines the public rhetoric of both sides, analyzing the kind of discourses and arguments for or against such disclosures, which cast whistleblowers as either heroes, who uphold transparency and democratic values by challenging powerful institutions, or as traitors who unlawfully expose state and corporate secrets. The intended discourse analysis is mainly focused on the Edward Snowden debate.

© 2017 Published by Future Academy [www.FutureAcademy.org.UK](http://www.FutureAcademy.org.UK)

**Keywords:** Whistleblower, classified documents, press freedom, Snowden, treason, heroism.



## 1. Introduction

The First Amendment of the American Constitution encapsulates the warranty of essential human rights and liberties – the freedom of belief and religious practice, the freedom of thought and opinion, the freedom of speech and expression, the right to information and fair government, the freedom of association and public action. These are crucial democratic principles, the attributes of a truly ideal state and society.

In the light of the historical conflicts and crises that the country has had to confront since these provisions were formulated by the Founding Fathers of the United States Constitution, these values seem to have overcome the challenges of political, social and economic change and the nation has tried to live up to their binding promise. Because the meaning and applicability of the First Amendment has often been put to the test, in the face of the multifarious manifestations of these freedoms and their ever-changing contexts, which have lent themselves to so many, inherently subjective interpretations. Yet, their humanistic and humane spirit has always prevailed, despite conjectural infringements on these freedoms and contextual misinterpretations of their scope or limits.

Today these foundational provisions are still upheld as essential to American democracy or to any functioning democracy, for that matter. But the challenges confronting this warrant of democracy continue to be as daunting as ever, as new critical cases require that the rights granted by the amendment be weighed against the specificity of each situation and manifestation. The key term remains *peaceably*. Whatever the freedom concerned, it can be guaranteed as long as it is *peaceably* exercised or protects national peace.

When the free expression of opinion, the right of association or that to *petition the Government for a redress of grievances* takes forms that imperil national safety or security, it is sometimes difficult to fit the rationales of the respective grievances and their ensuing actions into the framework of the First Amendment.

Despite the ever-increasing variety of individual or collective bids for freedom of speech and information, the truth of the matter remains that these provisions are meant to guarantee the protection of individual and collective rights and freedoms from any form of governmental or state endorsed oppression. In its firmly formulated stipulation that the Congress was not to impose legislative restrictions to fundamental rights and freedoms, the First Amendment asserts human and civil rights as its crucial underlying value.

## 2. Problem Statement

Over the first decades of the third millennium, characterized by the precipitous advance of the information age, American society and government have been faced with many dilemmas in responding to cases involving massive leaks of classified information, in which the *Clear and Present Danger Doctrine* has been invoked in sanctioning the freedom of speech or of the press. When it comes to leaks of intelligence or surveillance operations concerned with combating terrorism can pose serious threats to national safety and security, it seems that the *Preferred Position Doctrine* can hardly be invoked in the name of the primacy of constitutional freedoms.

And yet, the First Amendment's protection against *abridging the freedom of speech or of the press* is essential to the liberal humanism envisioned by the Constitution and has always represented the greatest promise of American democracy. The freedom of speech presupposes of, course, the freedom of thought and conscience, and the right to freely express it. Without this, there is no democracy. But the freedom of conscience and speech is bound up with the freedom to oppose or protest against the government and its policies. It may threaten political interests and, in general terms, the *status quo*, but it promotes public discussion and debate on matters of public interest.

The 20<sup>th</sup> century posed numerous challenges in this direction, as in the infamous case of the *Pentagon Papers* scandal of 1971, which occasioned much civil and legal debate on the extent and limits of the freedom of conscience and information. Initially charged with conspiracy, espionage, and theft of government property, journalist Daniel Ellsberg of *The New York Times* was eventually exonerated in 1973 of all charges under the *Espionage Act of 1917*, derived from the *Clear and Present Danger Doctrine*. The famously acclaimed outcome of his disclosures about the government's military operations in Vietnam and South East Asia was that the freedom of the press prevailed, with the core argument being that the press had a First Amendment right to publish information significant to the people's understanding of their government's policy. The disclosures were continued by the *Washington Post*, as the court ruled against the injunction of *Prior Restraint* requested by the government so as to prevent the newspaper from publishing the documents. This established an important legal precedent regarding the relations between the Government and the Press, upholding the prevalence of *Strict Scrutiny* over governmental interests regarding the protection of classified documents.

The ruling upholding the First Amendment rights of the *New York Times* to publish the Pentagon papers constitutes a famous case in the application of *Strict Scrutiny* or the *Preferred Position Doctrine*. The government had the burden of proof concerning a compelling interest at stake, which would preclude any other way of achieving that interest than that infringing on the freedom of the press, but as the state failed to prove that for a fact, and under the massive public pressure, the court ruled in favor of the public's right to information and of the free press principle.

Since then, the press freedom primacy has been expanded and reinforced by numerous interpretations upholding anti-governmental vigilance or protest as inalienable individual and collective rights, exempted from prosecution under the protection of the *Preferred Position Doctrine*. However, the *Clear and Present Danger Doctrine* and the *Espionage Act* have retained their force in protecting governmental classified files on grounds of state security and national welfare. It has been often stressed that, while *Times v. United States* represented a significant advance in an extensive reading of the First Amendment, the decision did by no means void the *Espionage Act* or grant the press unlimited freedom in publishing classified documents.

Today, more than ever, in the wake of 9/11, with the ongoing *War on Terror* and the constant threat of terrorism, these legal deterrents to press liberties are seen as more justifiable and present than ever. This resulted in a qualified approach to the freedom of the press, of public expression or association, when they are susceptible of posing a threat to national security. There are, however, many voices denouncing the strengthening of an extended system of surveillance and control which might infringe upon these elemental freedoms.

Now, more than ever, the relationship between the press and the government has is one of mutual suspicion, amounting to outright hostility. This is because the state and government have increasingly come to be seen as an opaque bastion of power, whose political rule and decision-making are actuated by secret motivations, supposedly at a remove from the public interest. Incited by such suspicions, the press is ever eager to reveal the “backstage” realities and rationales of governing bodies, and blow the whistle in case of any alleged misdemeanor on their part. In such cases, the press is in a position of dictating the public agenda, as the leak scandals of recent years have shown. At the same time, the executive was seen to impose the public agenda in the years leading to the wars in Afghanistan and Iraq, for questionable reasons and with arguably disastrous results.

The prevailing public perception is that there is a gap between the state’s political interest and the national interest, seen as the public interest benefitting the citizenry of national body. There is a growing conviction about the White House efforts to manipulate media coverage for political ends during the prelude to the Iraq invasion. Therefore the current trend of opinion in civil society is that neither the executive nor the press should be allowed to confiscate the public agenda, since both scenarios hold serious potential for abuse. Both institutions are supposed to represent and serve the public interest. However, the growing public distrust in the hazy operations of governmental bureaucracy has led to the questioning of the constitutional legitimacy of its political and social agenda, thus leading to the hypertrophying of the credibility of the press, despite the government’s efforts to hold it in check or discredit it in its turn. The battle between them is rather a battle for credibility, with each accusing the other of betraying public interest.

### 3. Research Questions

There are more and more voices claiming the right of the people to be informed about government policies and their impact on citizens on the domestic front and elsewhere in the world. The so called whistleblowers of today, brought to the fore of public debate by the revelatory project of Julian Assange’s *WikiLeaks*, reclaim the right to know what is really going on in the world, to understand the political decision-making processes and rationales relating to military involvement and operations in the world’s hot zones, to have a say in the humanitarian tragedies unfolding in the world. Any government’s political and military decisions affect the lives of millions, of innocent people who often become collateral victims in war zones, have their basic human rights violated in the crossfire of geostrategic global battlefields. Whistleblowers exposing documents of the allegedly occult dealings of government are often commended for exposing state and corporate secrets, increasing transparency, assisting the freedom of the press and enhancing democratic discourse while challenging powerful institutions. **Edward Snowden** is the most recent case in point, whose massive leaking of classified intelligence files in 2013 can be seen as an equally sweeping sequel to the *WikiLeaks* turmoil. His revelations about global mass surveillance programs on three continents were hailed for denouncing what many have begun to perceive as Big Brother institutions overseeing both domestic and foreign spaces.

Beyond the factual and discursive developments of the case, with its legal, political, ethical and social consequences, the questions it raises brought about an international debate relating to all these aspects. These questions concern the ever-increasing public distrust of state institutions, the suspicions of

governmental secrecy, the legitimacy of state sanctioned surveillance operations, the perceived curtailing of press and speech freedoms, as well as the legal, moral and ethical status of the so-called whistleblowers, who, while being vilified by the state and judiciary authorities, are hailed as heroes by the public at large. These are, by and large, the issues this paper seeks to address, formulated as follows: What are, morally and ethically speaking, the legitimate limitations of the freedom of speech and the public's right to information? Is the existing legal framework adequate to deal with such offences as the leaking of classified information? Who should dictate the public agenda? Are these high profile whistleblowers to be regarded as traitors or as heroes of the people? Is the information technology of the current information age being harnessed by officialdom to the purposes of mass surveillance which, quite paradoxically, impinges on the citizens' right to correct information, while invading their private space? Who should dictate the public agenda: the executive or the press?

#### **4. Purpose of the Study**

The issues that the present study aims to examine are the underlying causes of the abovementioned phenomena, with a focus on the rationales of the ever widening divide between the interests of the body politic and those of the social body, on the agonistic dynamic of the public communication between state, press and civil society institutions and forums. The emerging philosophy pervading the public discourse in the social arena is bound up with a growing mistrust in the powers-that-be and in the discourses of power, in what many see as an undemocratic cultivation of secrecy by state and government institutions. Public opinion seems to share in the conviction that there is an ever-widening rift between society at large or "the people" and the highest echelons of power, a divorce between government and the governed, often represented as an agonistic positioning of "us versus them".

As information is power, classified information from the corridors of power is suspected of hiding unpalatable secrets of geopolitical and strategic operations and decisions that would not enjoy popular support, so the protecting of these classified data from public scrutiny is equated to the manipulation and disinformation of the public. Unfortunately, the infamous cases involving leaks of privileged information by this nascent species of lone 'avengers of information', invariably turned into prosecutable outlaws, do little to alleviate the worldwide atmosphere of suspiciousness, which begins to corrode the very fundamentals of people's faith in the functioning of a genuine democracy.

Though the study dwells mainly on the public discourses relating to whistleblowing scandals in the United States, the issues raised here concern the entire international community and global trends of opinion. This is because this climate of public mistrust in the operations of government and their abidance by the principles of democratic transparency, civil rights and political accountability permeates the public space on the other side of the Atlantic. The prevalence of such polarization of public perceptions and discourses along the binary model of 'us versus them' flashes a warning beacon about the erosion of democratic beliefs and practices, a globalizing phenomenon whose disturbing causes, manifestations and consequences need to be addressed. It seems that the so-called knowledge based societies of the information age is in a quandary, riddled with questions that have yet to be answered. Without claiming to be able to provide any definitive answers, this study attempts to interrogate the ways in which these

phenomena are represented and responded to in the public discourse and rhetoric on either side of the national divide.

## 5. Research Methods

The main approach used in the study is that of critical discourse analysis of selected samples of the public discourse surrounding the so-called ‘Snowden effect’. While scrutinising the prevailing stances and rhetoric deployed by all parties involved, the paper is also based on a qualitative analysis of the public responses from state and government officials, political and security analysts, the judiciary, the press, the civil society at large, the online and social media, and, not least, from Snowden himself. The qualitative analysis of the respective discursive stances is centred on the main aspects of the controversy: political and security issues; social concerns about the infringement of privacy rights, free speech and information rights; the role, nature and admissible extent of surveillance programs; the validity of the rationalisations relating to security risks and concerns; legal, ethical and moral quandaries; the controversial perceptions about Snowden’s public stance and legal status; the increasing popularity of the whistleblower figure and the contrasting shades of his public image, simultaneously shadowed by official charges of treason and illuminated by popular acclaim for heroism.

## 6. Findings

The main facts in a brief overview of the case are the following. Edward Snowden is a thirty-three-year-old American computer professional who used to work with the CIA and then as a contractor for the United States government, more precisely for the National Security Agency. In 2013 he leaked classified information from the NSA, releasing it to the press without any prior authorization. After leaving his contractor job with the NSA and fleeing to Hong Kong, he contacted Glenn Greenwald from *The Guardian*, as well as Laura Poitras and Ewen MacAskill from *The Washington Post*, disclosing his findings to them. The journalists used the thousands of classified documents he provided in revelatory articles published in *The Guardian* and *The Washington Post*. Their disclosures revealed that the NSA was running extensive global surveillance programs, in partnership with the *Five Eyes Intelligence Alliance*, with the aid of major telecommunication companies and various European governments. The revelations also appeared in *Der Spiegel* and *The New York Times*.

As a consequence of these disclosures, the U.S. Department of Justice charged Snowden with violating the *Espionage Act of 1917* and with theft of government property. The charges themselves were secret and were unsealed soon after the leaks were run by the press. Under the circumstances, Snowden flew to Moscow, where Russian authorities granted him asylum for one year and later extended it to three years. He is supposed to be living in a secret location in Russia and seeking asylum in other countries. While Snowden has become a public figure, reviled by authorities and hailed by supporters in the civil society, the disclosures he has made have opened nationwide and worldwide debates over the legitimacy of mass surveillance operations and the rationales of government secrecy. The debate revolves around the balance between national security and information privacy and the ethical and legal aspects relating to it.

The accusations of treason against Snowden were reinforced by aggressive denials about the content and public import of his revelations, despite evidence to the contrary. One of the earliest revealed

programs is known as PRISM, a program allowing for direct access to Americans' Google and Yahoo accounts on the bases of court approval, as well as for monitoring the internet and mobile phone data of citizens in France. The most targeted group comprised prominent figures at the top of international business, finance and politics. In spite of all these factual evidence, authorities vehemently denied the oversight of citizens and officials in the domestic and international space, claiming that the disclosures only touched only on sensitive national security operations, thus jeopardizing national security programs. In 2014, high-ranking Army officials declared in front of the House Armed Services Committee that most of the documents ex-filtrated from the highest levels of security did not actually refer to any kind of government surveillance of private citizens' activities, being merely confined to technical aspects of regarding military defense strategies and sensitive security issues (Capra, 2014).

There have been many different estimates regarding the number of the leaked documents, the highest number advanced being of roughly one million. In his turn, Snowden holds his ground about the public interest legitimacy of his revelations. He continued to justify his action by invoking the legitimacy of serving the public at large, pointing out at the same time that he took great care in the selection of documents he thought it was imperative for him to disclose. (Greenwald, MacAskill, Poitras, 2013) In the ensuing declarative war of declarations and counter-declarations from government officials, journalists, press organizations, think tanks, it was alternatively claimed and disclaimed that the leaks had played havoc with crucial intelligence activities in the USA, Britain and Australia. These contradictory claims have yet to be definitively confirmed or infirmed.

The most realistic outcome of Snowden's disclosures that affected sensitive political realities was the diplomatic tensions between the U.S. and its allies, since it became apparent the U.S. had been conducting operations of political, economic and industrial espionage on countries such as Brazil, France, Mexico, Britain, China, Germany and Spain. The NSA was also believed to have been monitoring the activity of prominent world leaders, of whom most notable is the case of the German Chancellor Angela Merkel. Her response was that "spying among friends" was "unacceptable", and that the NSA was comparable with the Stasi communist secret police (Traynor & Lewis, 2013). The leaked documents further published by *Der Spiegel* in 2014 indicated that the NSA had targeted more than one hundred "high ranking" world leaders.

The Agency seems to have conceived a long-term program meant to expand its domestic and international surveillance activities to a massive, global capacity of tracing and collecting information on practically every living individual on the planet. The formulations used to express the ambitious ubiquity of massive scale intelligence operations chillingly resonate with Orwellian echoes, instantly evoking the terror of a Big Brother entity. In fact, the title of Greenwald's book *No Place to Hide*, published in 2014, takes up and propounds the same Orwellian admonitory themes, revealing that the NSA's professed goals amounted to such aspirations as "Collect it All", "Process it All", "Exploit it All", "Partner it All", "Sniff it All" and, ultimately, "Know it All" (Cole, 2014).

In the light of these shocking revelations, the prevailing public opinion was that NSA's activities had been extending beyond its national security mission and prerogatives, breaking new ground in the chase for privileged information, at the expense of basic privacy rights of both public figures and private citizens. Reportedly 90% of the online and phone surveillance targeted ordinary American citizens.

As regards the necessity of making these disclosures available to the public at large, and their benefit to the national and international citizenry, the almost unanimous answer was that they have an inalienable right to know if their privacy is at stake. Snowden has continued to rationalize his position as a man with a self-appointed mission, who has done nothing but his duty towards his fellow citizens, who, he thinks, have a right to be informed and thus enabled to have their say in matters regarding the way they are being treated by those who govern them. He has done nothing but open society's eyes to their public and private vulnerability to infringement on their rights to privacy, offering them much needed information and the opportunity of deciding upon the possible directions of change. (Gellmann, 2013)

The same idea was emphatically repeated by the former CIA agent Valerie Plame, during a presentation at John Hopkins University, namely that the heart of the matter in this debate is not so much Snowden's person, his epic experience and its pending resolution, but the public discussion it has engendered.

While giving his testimony to the European Union in 2014, Snowden said that there are still "undisclosed programs" whose disclosure he leaves at the discretion of all parties concerned. He calls upon the press, the government and all the major key players in domestic and international affairs to determine the boundaries of what constitutes the public interest and decide on the necessity of any further disclosures. (Fidler, 2015) In December 2013, a U.S. federal judge ruled that the collection of U.S. phone and Internet activity data conducted by the NSA is unconstitutional. While expressing his satisfaction, Snowden reiterated the rationale of his actions, insisting on the unconstitutionality of NSA's extensive surveillance operations, often sanctioned by the judiciary. He thinks it essential that all issues relating to violations of individual rights should be transparently dealt with in an open court. (Savage, 2013)

Although this did not actually clear him of all the charges against him, Snowden welcomed this ruling as an important argument in helping clear his name of the 'traitor' accusation. Refuting all treason allegations, he points out that he withheld information from any foreign parties, releasing it only to journalists in the American press, whose responsibility lies with taking on matters of interest on the domestic front. He also expressed his confidence in the triumph of truth and reason, stating that is not frightened by the prospect of any repressive measures, so long as he has acted in the name of the truth and his own conscience, in defense of public rights. (Bengali and Dilanian, 2013)

His legal defense representatives warn about his vulnerability under the relevant case law, denouncing the caducity of the Espionage Act, which makes it practically impossible for whistleblowers like Snowden to defend themselves in court. They draw attention to the reality that this "arcane World War I law" was not conceived for the prosecution of information age whistleblowers, but rather of spies who sell secrets to the enemy and betray their country. Indeed, it is clear that the judiciary is faced with a legal void in this matter. That this case should be dealt with within the narrow, context-bound framework of the Espionage Act is hardly acceptable, both legally and morally. His lawyer contended that under this law a non-spy is denied the right to a fair trial. (Radaack, 2014)

This fully illustrates 'the legal consequences caused by a lacking regulation in the field of the whistle-blowers' activity' (Ignătescu & Chihai, 2016). Despite the related precedents relevant to the case and the problems posed by the 'information war' of contemporary society, US legislation seems rather impervious to the provisions of significant international regulations in the area, from the Council of Europe resolution 24/1997 'On the twenty guiding principles for the fight against corruption' to the



‘Protection of reporting persons’ article in the 2003 United Nations Convention against Corruption and the more recent European Parliament resolution of May 2013 (Ignătescu & Chihai, 2016). In this light, it strikes one as so much more remarkable that, with the adoption by the Romanian Parliament of Law 571/2004, Romania should become ‘the first country from Continental Europe that adopts a special law that offers protection to whistle-blowers, against retaliation’, which, ‘although [it] offers protection only for the employees from public authorities or other institutions that signal unlawful behaviour, it is one of the few laws for the protection of whistle-blowers from the European Union’, providing ‘a minimal legal framework which can be considered a starting point in the foundation in law of the ‘whistle-blower’ concept’ (Ignătescu & Chihai, 2016).

Finally, the 2015 European Parliament vote of 285 to 281 in Snowden’s favor ended in a non-binding resolution that EU states should drop criminal charges against him. The EP acknowledged the legitimacy of his actions as a whistle-blower, informed solely by his endeavor to defend human rights at home and abroad. Thus, the EP implicitly expressed its disapproval of mass surveillance by European nations (European Parliament, 2015). Though not yet convicted with any crime, Snowden had his passport revoked and is forced to live in hiding, while trying to secure asylum in South America. But even if a few states in the region have granted him asylum, it was considered well-advised that he remain in Russia, as any air route to Latin America presents the risk of his being apprehended by US authorities.

While in the political limbo he was thrown in by the charges of treason against him, he has enjoyed wide popular support from both the press and public opinion, much as Ellsberg did in the Pentagon Papers saga. Although there have been no street rallies of protest in his favor or against the government, as happened in the hot war context of the 70s, his popularity has been intensively propagated in the digital media of our time, as well as in the printed press, which profiled him as the champion of digital privacy rights. The numerous prizes and awards he has received attest to the public acclaim acknowledging his contribution to the curtailing of indiscriminate global surveillance. Politically speaking, his disclosures impacted on resolutions and legislation at the highest level, such as the *Resolution 68/167*, adopted by the United Nations General Assembly, defined as an “anti-spying resolution” meant to “protect the right to privacy against unlawful surveillance”, as well as the *USA Freedom Act* passed by the US Senate in 2015, a qualified version of the former *Patriot Act*, adjusted so as to limit the collection of telecommunication data on US citizens by American intelligence agencies.

The journalists who reported on Snowden’s leaks have also enjoyed significant recognition for their contribution. Glenn Greenwald, Laura Poitras, Barton Gellman and Ewen MacAskill received the George Polk Award in 2013, which they offering as a tribute to Snowden’s contribution. Due to their reports on NSA activities, *The Guardian* and *The Washington Post* were awarded the 2014 Pulitzer Prize for Public Service for exposing the illegality of population surveillance practices and for raising public awareness of governmental operations that infringe on people’s basic human rights. The chief editor of *The Guardian* gave Snowden credit for his contribution, remarking on the merits of the public service he undertook. (Mirkinson, 2014).

## 7. Conclusion

Of course, the controversy over the so-called “Snowden Effect” is still going on, with new reports and findings bringing fresh arguments on either side (Fournier, 2013). While many still hold that the leaks have negatively impacted on the US political, economic and security interests, with direct consequences on the counterterrorism fight, some acknowledge that the world owes him the recent development of new encryption technologies, meant to protect the digital privacy of American and international users.

Hailed as a hero by the press and social activists or stigmatized as a traitor by officials, Snowden defines himself as a truth-fighter operating legitimately in the public interest, exposing the government oversight of domestic activities so as to safeguard the privacy rights of global citizenry. Rejecting any accusation of treason and defection, he stresses his position as a hero of the defenseless masses, saying that what he did was no act of betrayal, but of simply situating himself on the side of all those betrayed by the government.

He has achieved an iconic status worldwide political transparency activism. In the conflict between the government’s desire for secrecy in the post-9/11 age and the press organizations’ crusade for transparent governance, he remains an emblematic figure for the pursuit of what *Washington Post’s* journalist Bob Woodward calls “the best obtainable version of the truth.”

After all, the accountability of government in front of the nation is guaranteed by a Constitution. “*The right of the people peaceably to assemble, and to petition the Government for a redress of grievances*” sanctioned a genuine democracy, based on public participation in public affairs and the right to good and fair government, which people could censor, put to task and condemn when necessary. This is the prerequisite to the loftiest principle deriving from the First Amendment, that of the *Marketplace of Ideas*. President Thomas Jefferson contended that it is safe to tolerate “error of opinion...where reason is left free to combat it”, thus upholding above all the freedom of conscience and human reason, so relevant for today’s power struggles and information wars troubling the public arena. The same warning resonates in the words of Judge Murray Gurfein, who, declining to issue an injunction of Prior Restraint against the publication of the Pentagon papers, wrote that

‘the security of the Nation is not at the ramparts alone. Security also lies in the value of our free institutions. A cantankerous press, an obstinate press, a ubiquitous press must be suffered by those in authority in order to preserve the even greater values of freedom of expression and the right of the people to know’ (S.D.N.Y., 1971) .

Defining what has come to be known as the “Snowden effect” US Senator Bernie Sanders observes that, beyond all the reactions he has caused, ranging from love and admiration to disapproval and even hate, Snowden deserves the public gratitude for taking up issues and raising questions relevant for the public good. He contends that the heart of the matter is not the debate around Snowden, but the unpalatable truths he undertook to reveal. (Sanders, 2013)

All in all, whatever name we may call him – whistleblower, dissident, patriot, hero or traitor, it is a fact that Snowden has managed to raise many uncomfortable questions from the governmental shadows and to beat the NSA at their own monster game of “Monster Mind” and “Know It All”. The observation

that his disclosures marked “a true constitutional moment”, coming from his famous predecessor Daniel Ellsberg, represents the ultimate tribute to his daunting enterprise.

## References

- Bengali, S. & Dilanian, K. (2013). Edward Snowden vows more disclosures about U.S. surveillance. *Los Angeles Times*. Retrieved from <http://articles.latimes.com/2013/jun/17/world/la-fg-nsa-leak-20130618>.
- Capra, T. (2014, March 6). Snowden Leaks Could Cost Military Billions: Pentagon. *NBC News*. Retrieved from <http://www.nbcnews.com/news/investigations/snowden-leaks-could-cost-military-billions-pentagon-n46426>.
- Cole, D. (2014, May 12). *No Place to Hide* by Glenn Greenwald, on the NSA’s sweeping efforts to ‘Know it All’. *The Washington Post*. Retrieved from [https://www.washingtonpost.com/opinions/no-place-to-hide-by-glenn-greenwald-on-the-nsas-sweeping-efforts-to-know-it-all/2014/05/12/dfa45dee-d628-11e3-8a78-8fe50322a72c\\_story.html?utm\\_term=.f3c09fc2fad6](https://www.washingtonpost.com/opinions/no-place-to-hide-by-glenn-greenwald-on-the-nsas-sweeping-efforts-to-know-it-all/2014/05/12/dfa45dee-d628-11e3-8a78-8fe50322a72c_story.html?utm_term=.f3c09fc2fad6).
- European Parliament, Press Release. (2015, October 29). Mass surveillance: EU citizens’ rights still in danger. Retrieved from <http://www.europarl.europa.eu/news/en/news-room/20151022IPR98818/mass-surveillance-eu-citizens-rights-still-in-danger-says-parliament>.
- Fidler, D. P. (Ed.), (2015). *The Snowden Reader*. Bloomington: University of Indiana Press, p. 299.
- Fournier, R. (2013, June 12). Why I Don’t Care About Edward Snowden. Retrieved from <https://www.sanders.senate.gov/newsroom/must-read/why-i-dont-care-about-edward-snowden>.
- Gellmann, B. (2013, December 24). Edward Snowden, after months of NSA revelations, says his mission’s accomplished. *The Washington Post*. Retrieved from [https://www.washingtonpost.com/world/national-security/edward-snowden-after-months-of-nsa-revelations-says-his-missions-accomplished/2013/12/23/49fc36de-6c1c-11e3-a523-fe73f0ff6b8d\\_story.html?utm\\_term=.f28ef925880b](https://www.washingtonpost.com/world/national-security/edward-snowden-after-months-of-nsa-revelations-says-his-missions-accomplished/2013/12/23/49fc36de-6c1c-11e3-a523-fe73f0ff6b8d_story.html?utm_term=.f28ef925880b).
- Greenwald, G., MacAskill, E. & Poitras, L. (2013, June 10). Edward Snowden: the whistleblower behind the NSA surveillance revelations. *The Guardian*. Retrieved from <https://www.theguardian.com/world/2013/jun/09/edward-snowden-nsa-whistleblower-surveillance>.
- Ignătescu, C. & Chihai, G. B. (2016). *The Limits of Whistle-Blower Protection and Its Legal Consequences*. Retrieved from <http://www.futureacademy.org.uk/files/images/upload/WLC2016FA061F.pdf>.
- Mirkinson, J. (2014, April 14). The Pulitzer Prizes Just Demolished the Idea That Edward Snowden Is a Traitor, *The Huffington Post*. Retrieved from [http://www.huffingtonpost.com/2014/04/14/pulitzers-edward-snowden-traitor\\_n\\_5148471.html](http://www.huffingtonpost.com/2014/04/14/pulitzers-edward-snowden-traitor_n_5148471.html).
- Radack, J. (2014, January 22). Why Edward Snowden Wouldn’t Get a Fair Trial. *The Wall Street Journal*. Retrieved from <https://www.wsj.com/articles/SB10001424052702303595404579318884005698684>.
- Savage, Ch. (2013, December 16). Federal Judge Rules against N.S.A. Phone Data Program. *The New York Times*. Retrieved from <http://www.nytimes.com/2013/12/17/us/politics/federal-judge-rules-against-nsa-phone-data-program.html>.
- S.D.N.Y. (1971). *United States v. N.Y. Times Co.*, 328 F. Supp. 324, 331. Retrieved from <http://law.justia.com/cases/federal/district-courts/FSupp/328/324/1428158/>.
- Traynor, I. & Lewis, P. (2013, December 17). Merkel compared NSA to Stasi in heated encounter with Obama. *The Guardian*. Retrieved from <https://www.theguardian.com/world/2013/dec/17/merkel-compares-nsa-stasi-obama>.

## Web sources:

- [https://www.everipedia.com/Edward\\_Snowden](https://www.everipedia.com/Edward_Snowden)  
[https://en.wikipedia.org/wiki/Edward\\_Snowden](https://en.wikipedia.org/wiki/Edward_Snowden)  
[https://en.wikipedia.org/wiki/Edward\\_Snowden](https://en.wikipedia.org/wiki/Edward_Snowden)  
[http://www.worldafropedia.com/afropedia/Edward\\_Snowden](http://www.worldafropedia.com/afropedia/Edward_Snowden)  
<http://goodtimesweb.org/covert-operations/2014/wikipedia-edward-snowden-jan-29-2014.pdf>