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How Mass Media Simulate Political Transparency

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***Abstract.** Without mass media, openness and accountability are impossible in contemporary democracies. Nevertheless, mass media can hinder political transparency as well as help it. Politicians and political operatives can simulate the political virtues of transparency through rhetorical and media manipulation. Television tends to convert coverage of law and politics into forms of entertainment for mass consumption, and television serves as fertile ground for a self-proliferating culture of scandal. Given the limited time available for broadcast and the limited attention of audiences, stories about political strategy, political infighting, political scandal and the private lives of politicians tend to crowd out less entertaining stories about substantive policy questions. Political life begins to conform increasingly to the image of politics portrayed on television. Through a quasi-Darwinian process, media events, scandals, and other forms of politics-as-entertainment eventually dominate and weed out other forms of political information and public discussion, transforming the very meaning of public discourse. In this way the goals of political transparency can be defeated by what appear to be its central mechanisms: proliferating information, holding political officials accountable for their actions, and uncovering secrets.*

Introduction

This essay concerns the mass media's contributions to the political values of openness and democratic accountability that go by the name of 'transparency.' In fact, the metaphor of transparency encompasses three separate political virtues, which often work together but are analytically distinct. The first kind of transparency is informational transparency: knowledge about government actors and decisions and access to government information. Informational transparency can be furthered by requiring public statements of the reasons for government action, or requiring disclosure of information the government has collected. A second type of transparency is participatory transparency: the ability to participate in political decisions either through fair representation or direct participation. A third kind of transparency is accountability transparency: the ability to hold government officials accountable – either to the legal system or to public opinion – when they violate the law or when they act in ways that adversely affect people's interests. ^[1]

In theory, at least, mass media can make the political system more 'transparent' in all three respects: mass media can help people understand the operations of government, participate in political decisions, and hold government officials accountable. In practice, however, its effects are often quite different. In the age of mass media, democratic governments and politicians may find it useful to simulate the political virtues of transparency through rhetorical and media manipulation. This simulated transparency does not serve the underlying political values that motivate the metaphor of transparency. Instead, it is a transparency that obscures and obfuscates, that frustrates accountability and hides important information in a mass of manufactured political realities. It is a form of transparency that is not transparent at all.

Today political transparency is virtually impossible without some form of mass media coverage. However, mass media can frustrate the values of political transparency even while appearing to serve those values. When politicians and political operatives attempt to simulate transparency and appropriate the rhetoric of openness and accountability, the mass media does not always counteract the simulation. Indeed, it may actually tend to proliferate it.

People often oppose transparency to secrecy. However, governments and politicians can manipulate the presentation and revelation of information to achieve the same basic goals as a policy of secrecy and obfuscation. There are two basic strategies: divert audience attention, and supplement politics with new realities that crowd out and eventually displace other political realities and political issues. In this way political transparency can be defeated by what appear to be its own mechanisms: proliferating information, holding political officials accountable, and uncovering things that are secret. ^[2]

Strategies of Simulation

The very metaphor of transparency suggests a medium through which we view things. We want the medium to be transparent to vision so that we can accurately view what is on the other side.^[3]

This metaphor assumes:

- (1) That the medium is conceptually separate from the object on the other side; and
- (2) That the process of seeing through the medium does not substantially alter the nature of the object viewed.

Both of these assumptions turn out to be false when the medium is television and the object to be viewed is governance. The medium is not conceptually distinct from the operations of governance because governance occurs through using the medium. Moreover, seeing things through the medium of television substantially alters the object being viewed. Indeed, television creates its own political reality: a televised politics and a public sphere of discourse organised around media coverage of politics. This sphere of discourse is self-reflexive and self-reproducing – television coverage of politics is part of politics, and hence media discourse about politics continually supplements and alters the politics that it purports to portray.

How do mass media simulate and subvert political transparency? The basic idea is simple. Sometimes the most effective strategy for hiding something may be to leave it out in the open, and merely alter the context in which people view it. Instead of hiding facts, one should instead seek to change background realities. Large law firms in the United States have long understood this point. When faced with requests for discovery in civil cases, they understand that simply stonewalling to avoid the disclosure of sensitive information is not always the most effective strategy. Instead they can adopt a dual strategy of aggressive overcompliance coupled with strategic manoeuvre. They flood the other side with so much information and so many documents – most of them extraneous – that the other side lacks the time or ability to find the relevant information. At the same time, the law firm can raise continual technical objections to the progress of discovery, without ever ultimately withholding anything.^[4]

These tactics are most useful against a weaker, smaller opponent with less information processing and filtering resources. They are designed to demoralise the other side, raise the costs of litigation, and divert time and energy from the most important substantive questions in the lawsuit. In this way one can use the discovery process – which is, after all, designed to achieve a certain kind of informational transparency – to undermine the values of transparency. One can use the form of transparency to achieve substantial obscurity.

This example demonstrates the two basic strategies for simulating transparency: diversion of attention and supplementation of reality. The goal is to consume the opponent's time and attention. Equally important, one tries to shift the ground of battle to issues of information management and technical questions of procedure. In short, one creates a new practical legal reality for the opponent. This new reality competes with and displaces the substantive issues that originally motivated the lawsuit. In other words, the skilfully played discovery battle creates new objects of contention: it produces ever new things to be concerned about, to become angry about, and to fight about.

In the public arena, simulation of transparency also uses diversion and supplementation. But although the public is trying to obtain information, it is not in the same position as a litigant. Politicians and the mass media do not necessarily regard the public as an adversary. Rather politicians seek to shape and benefit from public opinion, and mass media seek to entertain the public and maintain public attention and influence. Nevertheless, in achieving these ends politicians and the media, both collectively and agonistically, divert audience attention and supplement politics with new political realities.

The Special Role of Television

One can well understand why politicians would want to divert attention from information that is detrimental to their interests. But why would the mass media have an interest in simulating transparency? Indeed, the media's interests are quite different than those of politicians. Nevertheless the media's collective efforts also subvert the political values of transparency, even – and perhaps especially – when media and politicians view each other as adversaries.

Many different kinds of mass media can simulate transparency. But the dominant medium of political communication in our age – and hence the dominant medium of political transparency – is television. To understand how television simulates transparency, we must understand how television shapes what we see through it. When we use television to understand politics, we see things in the way that television allows them to be seen. At the same time, television creates new forms of political reality that exist because they are seen on television.

Television tends to emphasise entertainment value. It subjects culture to a Darwinian process: The less entertaining is weeded out, the more entertaining survives to be broadcast. Hence coverage of public events, politics, and even law must eventually conform to the requirements of 'good television,' that is, the kind of television that grabs and keeps viewers'

attention by absorbing and entertaining them (Balkin, 1998).^[5] Television encourages coverage that focuses on the personal celebrity of participants and on the sporting elements of political conflict (Fallows, 1996; Postman, 1985). Over time, television coverage of politics tends to focus less on substantive policy issues than on the techniques of securing political advantage and political viability (Fallows, 1996; Bennett, 1996). The question of 'who's winning' and how are they achieving this victory tends to dominate television coverage. In one sense stories about backstage political manoeuvring and spin control offer a kind of transparency, because they purport to give viewers an 'inside' account of the strategic considerations of politicians and public officials. But in another sense they divert attention from substantive policy debates. Given the limited time available for broadcast and the limited attention of audiences, 'inside' stories about strategy and jockeying for political advantage tend to crowd out stories about substantive policy questions.

Moreover, because politicians understand how important mass media have become to retaining power and influencing citizens, television helps create a new reality populated by spin doctors, pollsters, pundits and media consultants. Thus eventually political life begins to conform more closely to the image of politics that television portrays it to be. Television portrays a world of image manipulation and spin control largely devoid of substantive debate or reasoned analysis. Because television is so central to successful mass politics, it eventually helps produce the very elements that it portrays. We might call this a self-fulfilling representation.

Television coverage of law has analogous effects. Television converts law into a form of entertainment suitable for consumption by lay audiences (Postman, 1985). Television has created a world of law-related shows and legal commentators whose basic goal is to describe law in ways that are comprehensible to television audiences and that can hold their attention. This means, among other things, that law must become entertaining (Balkin, 1992). Certain features of law – the thrust and parry of contention in lawsuits and criminal trials – seem tailor made for television coverage. But the image of law that television portrays reshapes the adversary system in television's image. Law-as-entertainment seems to bring the legal system closer to the public, but it actually substitutes a transformed product – televised law. Public imagination about law used to be nourished by television dramas and made-for-TV movies; now it is increasingly shaped by television coverage of legal events themselves which are served up as popular entertainment and displayed through the lens of television commentary (Balkin, 1992).^[6]

In a very short time the Internet has become an important medium of political communication that rivals television. The Internet is not yet televisual; it employs mostly text and still pictures. Even so, the Internet has shaped and enhanced the effects of television in three ways. First, the Internet has helped to shorten the news cycle of reporting, in part because stories can be constantly updated on the Internet with relative ease. A shorter news cycle tends to promote more continuous television coverage of news events, especially on cable networks. Second, because the Internet makes mass distribution of information relatively inexpensive, it helps proliferate new kinds of information from new sources – including gossip and second-hand reports – that television can pick up and disseminate, assuming that the information passes muster under existing standards of television journalism. Third, for similar reasons, the Internet makes possible new journalistic sources that compete with television coverage, and new journalistic practices that may occasionally affect the form and content of television coverage and the standards of television journalists. Hence, the Internet can help exacerbate television's tendency to emphasise celebrity, inside strategy and gossip, and television's conversion of law and politics into forms of entertainment, even though the Internet is not yet a fully televisual medium.

Media Events

Media events are familiar methods of manipulating political transparency. Politicians stage events specifically designed to be covered by the mass media. Media events show politicians engaged in the business of governing or carefully deliberating over public policy issues. Another class of media event shows the politician with his or her family, participating in casual activities, or in a seemingly unguarded and intimate moment.^[7]

Media events that involve displays of governance are designed to look governmental, and media events involving displays of personal affect are designed to look spontaneous. American politics has employed media events for many years. The Reagan Administration developed them to a high art form.^[8] Almost all public presidential appearances now consist in some form of media event, merging the act of governance with media display. The Clinton Administration has used media events to great advantage: As President Clinton lost the ability to push large scale reforms through a recalcitrant Congress, he increasingly took to governing through small scale initiatives like encouraging the adoption of school uniforms. These initiatives were announced and touted in a series of media events designed to make his presidency appear active, robust, and engaged with popular sentiments and concerns.^[9]

Media events perform a *jujitsu* move on the political values of transparency. The goal of political transparency is to help people watch over the operations of government and the behaviour of government officials. The point of the media event is to

encourage watching. The media event is a form of political exhibitionism that simulates effective governance and personal candour.

By demanding our attention, and the attention of the news media, media events appear to offer us substantive information although what they actually offer is largely political image and showmanship. Moreover, by commanding media attention, media events trade on a fundamental difficulty facing all forms of political transparency. This is the problem of audience scarcity.

Most individuals have only limited time and attention to devote to public issues. Political values of transparency do not demand that citizens spend all of their time on public subjects. Rather, they make information available to individuals so that they can use it if they so choose. But when there is too much information, filtering necessarily occurs. This filtering occurs both in terms of what media decide to cover and what individuals decide to watch. Media companies must pick and choose among hundreds of possible subjects to discuss. Individuals must choose among thousands of hours of potential coverage of public events.

The need for filtering enhances the power of media events. By flooding the media with ready made press releases and staged pageants that function as 'good television,' politicians provide media with easily edited programming that can be strung together in televised sequences. Providing media with 'good television' allows politicians to capture more and more of the media's coverage. This diverts media attention from information that might actually be more useful to the political goals of participation, information, and accountability.

Moreover, media events do not simply add new information to the mix; they also drive out other forms of coverage through a sort of Gresham's law of mass media. The media event is deliberately designed to be a watchable, ready-made form of political entertainment, one that can be easily chopped up and edited for news broadcasts. It is relatively cheap to cover, and easy to broadcast. News organisations quickly learn that it takes less effort to accept what is given them by politicians than to

develop entertaining news programming on their own. ^[10]

For these reasons media events can affect the behaviour of news organisations that are fully aware of their simulated character. Well-planned media events can displace other forms of reporting that take greater time and effort to produce. By thrusting entertainment in our face, politicians effectively keep us from watching other things. And because politicians, and especially presidents, increasingly govern through media events, news organisations feel an obligation to cover them. Media events, in short, both divert political attention and supplement political reality.

The Public and the Private

Many people have noted and decried the mass media's increasing intrusion into the private lives of public figures. Although coverage of entertainers' and sports figures' private lives has been common for many years, the phenomenon has clearly invaded political life as well. The Clinton scandals have made possible discussion of private sexual conduct in the mainstream press that would have been unthinkable only a few years before. ^[11]

Media coverage of the private lives of public figures is actually a form of informational transparency, although not necessarily one that serves democratic values. Increasingly the mass media have endeavoured to make the private lives of public figures transparent to the ordinary viewer. For many people this evolution of journalistic standards is a travesty, because it diverts attention from 'public' issues. But as noted before, increasing intrusion into private lives does not merely divert attention – it also helps create and supplement public discourse; it fosters new political realities that cannot easily be avoided, as politicians ranging from Gary Hart to Bill Clinton have discovered to their chagrin. Repeated focus on the 'private' eventually alters the boundaries between public and private; it changes the nature of what is appropriately withheld from public scrutiny. Revelations of the previously 'private' also alter the meaning of 'public discourse' or 'public issues.' The very pervasiveness and availability of information (or rumours) about the private lives of public officials reinforces the idea that such private behaviour is not wholly private – that it raises public issues about which the public should be concerned. In the 1992 and 1996 presidential campaigns Clinton's opponents used the term 'character issue' to show the connection between things formerly thought private and public concerns.

The character issue was not an artificial creation of Clinton's Republican opponents. It was fostered by repeated media investigations into the private lives of many different public officials before Clinton, and it was encouraged by the changes in public discourse brought about by these investigations. Journalists, in turn, have adapted the rhetoric of political transparency to defend their emerging investigative practices, to rationalise greater sexual frankness in reporting of news stories, and to justify their sense of greater entitlement to investigate and report on the private lives of public officials, including their infidelities, their sexual orientations, and their sexual habits.

Many journalists defend their evolving practices using language that sounds very much like a defence of political transparency: The public, they argue, has a right to know. Moreover, although some revelations may ultimately prove immaterial to political issues, journalists should place all potentially relevant information before the public and let the public

choose whether it is relevant to democratic decision making.^[12] This rhetoric has three effects.

First, it equates public knowledge about (for example) the President's sexual habits with public knowledge about the details of foreign or domestic policy, and with information that government collects on private citizens through surveillance.

Second, by making these new forms of knowledge part of democratic decision-making, journalists change the contours of public discourse and the definition of a 'public issue.' Journalists do not simply respect the existing boundaries of the public and the private but actively reshape them. Merely by talking about sexual scandal and encouraging others to do so, journalists make these topics part of public discourse and public comment.

Third, by adding formerly excised information about sexual conduct to public discourse, journalists inevitably create competition for public attention between stories about politicians' private lives and stories about other aspects of public concern, for example, the details of public policy debates. In this competition, stories about sexual and personal matters are likely to grab a greater share of attention. By adding sexual scandal to the mix of competing stories, journalists change the odds that other forms of information will survive the inevitable filtering that occurs when information is too plentiful. It is somewhat like introducing a particularly virulent weed into a flower garden: one should not be surprised if the weed monopolises increasing amounts of space while less hardy plants are choked off.

This effect occurs even if the public does not think that 'private' or sexual matters are appropriate to judging the performance of public officials. For what draws audience attention is not what the public regards as relevant to public policy but what it regards as entertaining. For example, polls have repeatedly suggested that most Americans do not think President Clinton's alleged peccadillos undermine their confidence in his performance as president, although they have undermined their

respect for him.^[13] Nevertheless, the details of the Lewinsky scandal formed continuous fodder for talk shows, and for months consumed a considerable portion of nightly news broadcasts. Reports about scandal grab attention even if the scandal itself is considered irrelevant to public policy by the very public that watches the reports. As a result, the purported expansion of information in the name of 'the public's right to know' is effectively a contraction of public discourse, because audience time is limited. Through a Darwinian mechanism, information about sexual scandal proliferates and drives out information that constitutes or could potentially constitute other elements of public discourse.

The very question of what is appropriately a 'public issue' or an 'appropriate' story to broadcast is not based on a fixed set of standards. Rather, it is the product of the joint activities of all who call themselves journalists, and depends on their existing professional standards and their expectations about likely public reaction to their reports. Because each journalist has the potential ability to alter the mix of stories competing in the public sphere, journalists as a whole face a collective action problem in maintaining the boundaries of what is public and what is private. If one journalist changes the contours of the public through a series of revelations, other journalists may feel compelled to follow along. Journalists may feel duty bound to report whatever is in fact in the public sphere of discussion. Once one journalist has broken a story, it has been inserted into

the public arena, thus lessening the sense of responsibility felt by other journalists.^[14] Moreover, once a story has been inserted into public discussion, the incentives of media actors follow a familiar logic: Because journalists believe that certain kinds of stories are more likely to gain valuable and limited audience attention than others, they must respond when other journalists produce stories likely to garner the lion's share of attention because of their salacious or dramatic elements. The result is a self-amplifying focus or a 'feeding frenzy' around certain topics (Sabato, 1991).

It is important to recognise that this effect can occur even though all journalists do not share the same standards of what is newsworthy. It can occur even though mainstream or high prestige journalists usually demand more corroboration or more reliable sources than other journalists before they will publish a story. For example, journalists in traditional metropolitan dailies take great pains to distinguish their standards and practices from those of Matt Drudge's Drudge Report. Drudge's Internet-based column regularly acts as a foil to the journalistic standards of the mainstream media. However, once a journalist like Drudge publishes a story, this sends a few journalists scurrying to confirm it. If they cannot confirm it according to their higher standards, the story does not spread to more mainstream outlets. However, once there is confirming evidence – as judged by the standards of a given group of professional journalists – there is pressure on those journalists to repeat the substance of the story. Eventually this creates a sort of cascade effect. This cascade occurs even if there are different groups of journalists with different standards of verification. And once a story breaks through a certain level of 'mainstream' journalistic

judgement, it is very difficult to stop the story.^[15]

Fourth, by arguing that the public has a right to know about 'private' issues, journalists can present themselves as more devoted to transparency than journalists of the past. While journalists previously would have killed stories about private sexual behaviour, contemporary journalists can claim that they are offering a freer, more open form of public debate in which they no longer play the role of paternalistic gatekeepers. Some journalists can even convince themselves that they are empowering the public through these revelations. But instead of empowering their audiences or increasing information, journalists may in fact simply be altering the mix of stories presented to the public; the practical effect may be a contraction of the scope of public discourse.

However, we should not lay blame for these changes entirely at the feet of journalists and media executives. In fact, politicians themselves have contributed to the gradual change in the contours of public discussion. Politicians, like other public figures, have discovered over time that in a world shaped by television, it is increasingly important to communicate not only

information but also ethos. Public figures hope to persuade and possibly manipulate their audiences by presenting themselves as likeable or down-to-earth characters that a television audience can relate to. Using television to humanise public figures is related to the rise of media events as a form of governance.

By displaying their personalities for consumption by television audiences, public figures simulate yet another form of transparency – the transparency of ethos. The television audience gains access to what the public figure is ‘really’ like ‘up close and personal.’ Celebrities and public figures who appear regularly appear on television try to garner high popularity ratings by appearing close to their viewers. In this respect television differs somewhat from motion pictures; movie actors may deliberately attempt to establish aloofness or distance from their fans. Fans of television actors, on the other hand, often think themselves closer to the actors as people.

Politicians have learned that the appearance of intimacy or the production of an attractive ethos on television is very helpful to political success. As a result, many public figures have attempted to project as far as possible a personable, warm, or approachable image appropriate for television. Public figures who appear distant, cold, or uncaring on television generally succeed in spite of their appearance.

In order to simulate a transparency of ethos, politicians and public figures have been collapsing the distance between the public figure and his or her private persona for some time. They have attempted to connect with viewers and voters by emphasising their emotional availability, friendliness, and closeness to voters in ways dictated by the medium of television. Successful politicians have always run on character issues and emphasised their own good character. But television culture gradually changes the sort of character the successful politician must portray. To succeed as a television personality, politicians have tended to emphasise elements of their persona that might otherwise be thought ‘private;’ they have shown more and more of their (seemingly) ‘private’ sides to the public. They show themselves to be ‘family people.’ They engage in confessional displays, revealing private features of their past, their family’s past, or their family’s current difficulties. They provide seemingly unguarded moments of revelation and deep connection to the voters. They emote on cue in public. To a large extent this presentation of the private side of a politician’s life is a fabrication – it is the work of publicity agents and campaign staffs. Nevertheless, politicians persist in it because it works well in terms of the dominant medium of political communication – television.

But this simulated transparency comes at a cost. Simulating a transparent ethos for television necessarily reconfigures the boundaries between publicity and privacy. The more politicians attempt to use television as a means of establishing closeness to their constituents, the more they erase the boundaries between the public official and what they promote as his or her private persona. The exhibition of a private persona for public consumption invites the public to expect that elements of the private appropriately merge with a politician’s public persona and hence are appropriate subjects of public discussion. Politicians have manipulated television imagery for so long that they have helped to create the very erasure of public and private persona that now haunts them.^[16] They have been willing accomplices in the creation of a new political culture that sees private aspects of a person’s life as politically relevant, that collapses older boundaries between public and private. The current wave of media propagated scandals in the United States is the price we are currently paying for the construction of a simulated transparency between governments and the governed.^[17]

The Culture of Scandal

The Clinton/Lewinsky scandal in the United States is part of a more general cultural phenomenon, in which the news media rush from ‘big story’ to ‘big story.’ These stories usually but not always have elements of scandal in them. They range from Whitewater to the O. J. Simpson trial to the Gianni Versace murder to the death of Princess Diana to the 1996 campaign finance scandal to the sexual scandal that ultimately led to Clinton’s impeachment in December of 1998. When the scandal concerns public officials – as the Lewinsky scandal did – the culture of scandal appears to involve successive acts of revelation about misdeeds by public officials. Thus it appears to strike a blow for informational transparency and accountability transparency.

In fact the present culture of scandal in the United States is not really a culture of increased political transparency. Our current culture of political scandal is a self-replicating, self-reproducing cultural phenomenon. It is a cultural virus that spreads like an epidemic through the public sphere. It produces and proliferates discussion about elements of the scandal but it does not necessarily bring us closer to understanding the workings of government or making government officials more accessible or accountable.

The Clinton/Lewinsky scandal, for example, spawned countless auxiliary discussions:

(1) Stories about the lawyers representing principals in the case, stories about people who may or may not have leaked information to the press, stories about Monica Lewinsky, and stories about her co-workers, associates, friends, or, indeed, anyone who had ever met her or dealt with her in any capacity.

(2) Stories about the legal process viewed as a form of sports competition or entertainment. Reporters speculated about who was ahead: the President, Independent Counsel Kenneth Starr, Congressional Democrats or Congressional Republicans.

(3) Stories about the political advantage to be gained by, and the political viability of, the President, the independent counsel, and other political figures.

(4) News programs and talk shows featuring endless accusations by political operatives, pundits, representatives of the President and of the Democratic and Republican parties. These programs created countless opportunities for presidential defenders and critics to accuse each other of bad faith, of political grandstanding, of slowing the investigation down, of railroading the investigation, of hiding the truth, of engaging in Gestapo tactics in investigation, of abusing the grand jury process, of abusing the discovery process, of abusing the impeachment process, of misunderstanding the Constitution, of misleading the press, of misleading the public, of being in secret alliance with unscrupulous members of the press, of being in secret alliance with unscrupulous political operatives, and so on. These accusations, in turn, led to still further stories about whether and to what extent the President was the victim of ‘ordinary politics’ or ‘a vast right wing conspiracy’. Further stories within stories appeared about the sources and origins of leaks, and the ethics and legality of producing leaks. Finally there were stories about Starr’s prosecutorial tactics, his ability or inability to defend the accusations made against him, and the costs of his investigation, both in terms of taxpayer money and in terms of legal fees expended by people sucked into the investigation.

(5) Endless stories by the mass media concerning their own coverage of these events, including discussions about who first uncovered a particular piece of information, how it was first uncovered, the reactions to the revelation, the reaction to those reactions, and so on. Media coverage of media coverage provided endless opportunities to discuss:

(a) The media’s professional and ethical responsibilities in reporting or failing to report particular information that came to their attention, or in asking or not asking particular questions of the principals involved in the investigation;

(b) The decision by various actors in the scandal to leak or not to leak information to the media, including the ethical, professional, and political consequences of decisions to leak or not to leak; and

(c) Whether the media was biased in a particular direction in its coverage of different principals in the scandal. Eventually this turned on itself, and produced a series of stories asking whether the media was biased in the coverage of its own activities in covering the scandal. ^[18]

These various forms of cultural proliferation ensure that the culture of scandal does not simply repeat the same stories and accusations over and over again. Rather, the culture innovates and mutates as it proliferates discourse. It finds ever new angles to discuss. It chews over the events repeatedly, generating new lines of inquiry and new ways to cover the events. In so doing, the scandal produces ever new events to cover, which are folded into the general culture of the scandal. The culture of scandal, in short, proliferates discourse about itself.

News media in the United States have launched multiple shows giving multiple experts opportunities to discuss the scandal, events related to the scandal, media coverage of events related to the scandal and media coverage of the media coverage of events related to the scandal. Although scandals are to some degree inherently interesting to audiences, the events of the scandal must be assessed and approached from many different angles in order to sustain viewer interest. The culture of scandal proliferates itself, like a mutating virus, constantly changing its features in order to grow more widely and spread more rapidly.

This is due in part to the nature of television coverage. Over time, big scandals, like other big stories such as the death of Princess Diana, have created the expectation – and hence the need – that individuals can turn on the television at any time in the day and learn something about the details of the scandal. This is especially so in the early days of a scandal or major media story: between the various cable and broadcast channels one usually finds the equivalent of continuous coverage. (The continuous updating of information on the Internet has probably accelerated this tendency.) Expectations about continuous coverage of a story and the fact that it is being continuously broadcast produce continual discursive experimentation and innovation with the story over a relatively short period of time. As the media discuss the story over and over again, the story mutates and is recreated literally before our eyes. The need to talk about scandal incessantly creates the need to have something to talk about, which in turn generates the multiple angles, approaches, accusations and counter-accusations that keep the conversation moving and produce ever new angles to the story. By further shortening the news cycle, the Internet has added fuel to the fire, providing fresh opportunities for discussion and dissemination of gossip.

Proliferation of discussion about a scandal sometimes leads to the creation of new television shows originally devoted to aspects of the scandal but which eventually take on a life of their own. The O. J. Simpson trial, for example, led to the creation of CNN’s legal affairs show ‘Burden of Proof’ and budding television careers for Greta Van Susteren and Roger Cossack. The father of all late night news programs – ABC’s *Nightline* – originated out of the mother of all political scandals, the Iran hostage crisis of 1979-80. Initial interest in the crisis led to a nightly audience for the show, which led to ABC’s promise that it would continue to cover events until the hostages were released. When the crisis dragged on, ABC made a virtue out of necessity and created a new genre of news program. ^[19]

Because scandal proliferates discourse, it does not necessarily lead to truth, revelations of falsehood, or depth of coverage. Proliferating discourse does not increasingly get to the truth – rather it approaches the question of what is true from increasingly diverse angles of inquiry. A scandal’s natural trajectory is not towards depth but rather *breadth* of coverage – it ceaselessly expands its agenda for discussion outward, capturing more and more subjects and individuals as possible topics of

discourse.

Once again we can see a Darwinian logic at work. More time spent on covering the scandal and its mushrooming concerns means less time for coverage of other events. Once again what starts as a demand for transparency – of information and of accountability – ends as diversion and as the creation of a new reality that crowds out other information and other public concerns. As before, this proliferation of discourse does not merely divert our attention – it creates a new political and legal reality complete with new agendas and social meanings. Eventually, the scandal proliferates political realities and makes its discourses politically important and politically salient *because it is being covered and discussed*. Hence one cannot say that the culture of scandal merely disguises political life. It fosters it, multiplies it, mutates it, supplements it and eventually substitutes for it. Like a particularly obnoxious weed in a field of grass, the culture of scandal gradually pushes aside other discourses and threatens to consume a greater and greater share of public attention, public discussion and public opinion. It becomes politics as actually practiced. It becomes public discourse as actually discussed.

Conclusion

To some extent the phenomena I have described in this essay are simply the by-products and imperfections of a normally functioning democratic system. Taken to an extreme, however, they can prove troublesome. My sense is that the Clinton/Lewinsky scandal – which produced the first presidential impeachment in over a century – is a pathological tendency rather than an instance of democratic politics as usual. There may be little that can be done at this point to remedy the damage this particular scandal has created. But we can well ask what we should do for the future.

The most direct approach, in the form of censorship or regulations on political speech, is surely unconstitutional, and is destined in any case to fail. Instead of attempting to block these tendencies, one must rather supplement them with healthier ones. The public must demand a more diverse coverage and news organisations must provide it. But the problem lies not so much in failure of will as in the structure of news creation and dissemination. In the same way that stock markets have rules to prevent avalanches of panic selling, news organisations should consider creating structural methods of diversifying their coverage even in times of intense political and cultural scandal. These structural provisions cannot be the product of government fiat but rather must come from within media organisations themselves. In the United States, at any rate, government's role must be limited to supplementing existing broadcasting with more balanced fare.

One might object that news organisations cover media events, politicians and scandals in the way that they do because they are behaving rationally given the incentives to increase or maintain audience share. That may be true, but one can also say that sellers in a market panic are also behaving rationally given what other people are doing. Rational behaviour occurs against a background of incentives produced by structures. Our goal should be to understand how existing structures operate and to change them for the better.

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1. This accountability can be direct accountability (for example, the ability to sue), indirect accountability (holding officials accountability to one's agents or elected representatives) or accountability to some other body that acts in the public interest, like a court of law.
 2. Jean Baudrillard (1994) is famous for his emphasis on the emergence of 'simulacra' – signs which constitute their own reality. He describes a historical progression in which images first depict reality, then distort it, then hide the fact that the reality they depict is missing, and finally produce their own 'hyperreality.' In this progression, 'simulations' begin as false representations of reality; they end as the basic building blocks of a hyperreality. My concern in this essay is somewhat different from Baudrillard's and I do not adopt his language of 'simulations' versus 'simulacra.' I am particularly interested in the ways that mass media can divert audience attention and supplement political reality. The example of law firm discovery practices offered in the next section of text suggests that diversion of attention and supplementation of reality are old stratagems that can arise without mass media. Indeed, these techniques are ancient military stratagems described in Sun Tzu's famous treatise *The Art of War* (1991). For this reason, I would not describe diversion and supplementation as creating a new hyperreality. Nevertheless, I do agree with Baudrillard (and with McLuhan, for that matter) that the rise of mass media (and particularly televisual mass media) has important effects on our sense of what is important in life as well as what is real.
 3. In the case of transparency of participation or accountability, we want to make the medium 'transparent' to political will so that what is on the other side of the medium will respond efficaciously to assertions of political will.
 4. See Hare (1994, p. 47), noting attempts to subvert meaningful discovery by responding to specific inquiries with volumes of documents, undifferentiated as to subject matter.; Dombroff (1984; 1988 Supp., p. 35); T. N. Tanke Corp. v. Marine Midland Mortgage Corp., 136 F. R. D. 449, 456 (W. D. N. C. 1991) (ordering documents to be produced in a manner clearly indicating which documents respond directly to plaintiff's request); Holben v. Coopervision, Inc., 120 F. R. D. 32 (E. D. Pa. 1988) (finding response to interrogatories seeking information concerning test results was improper where defendant unloaded information in bulk).
 5. This is not a claim of technological determinism. What we call the medium of television involves not only electronic systems of delivery but social relations: the economics and culture of television production. The definition of 'good television' has changed over the years, and continues to evolve. Nevertheless, it has tended to evolve in the way I have described.
 6. Broadcast of legislative and court proceedings offer yet another example of how transparency can be simulated. C-SPAN and C-SPAN2 cover only hearings and debates; they do not show the actual places where most public policy decisions are made. Moreover, there are strict limits on where the cameras can be aimed, so that the audience does not know whether a Senator or congressman is speaking to a full audience or an empty house, or whether the person sitting five feet away from the speaker is listening attentively, is sleeping through the eloquent appeal or has collapsed in a drunken stupor. On C-Span's coverage and camera restrictions, see Sharkey (1996); Grimes (1995); Anon. (1995).
 7. Members of the candidates' family can serve as props in these pageants. A well-known example is the news coverage of President

- Clinton dancing with his wife Hillary in a seemingly unguarded moment during a vacation in the Virgin Islands. The photographs seemed to reveal a moment of unrehearsed marital harmony in the midst of the President's troubles in the Paula Jones lawsuit and the Monica Lewinsky investigation, but some have speculated that the private moment was planned for public consumption (Smith 1988). See also Harris (1998), speculating on the status of the Clinton marriage after the President and First Lady are seen dancing closely at a state dinner for Vaclav Havel.
8. See Hertsgaard (1988, pp. 6, 52-53, 341), describing the Reagan Administration's institutionalisation of the practice of presenting the media with pre-packaged news stories.
 9. Note that media events are normally staged by people at the top of the political hierarchy rather than by subordinates whose decisions may actually have more direct effects on individuals. One does not expect motor vehicle department workers, welfare caseworkers, probation officers, or other members of the bureaucracy to engage in media events on a regular basis.
 10. See Fallows (1996, pp. 146-7), arguing that journalists tend to rely on accessible, familiar sources of information; Behr and Iyengar (1993, pp. 222-6), describing how politicians set agendas for journalists.
 11. See, e.g., Baker (1998) ('pornographic reporting'); Goodman (1998) (describing coverage of the Lewinsky scandal as 'unusually salacious.');
 - Gumbel (1998) (American political commentators and comedians have made sexually explicit references that would have been unthinkable prior to the scandal); Gurdon (1998) (documenting media's practice, as a result of the Lewinsky coverage, of attaching warnings to their broadcasts to alert viewers unaccustomed to torrents of sexually explicit reporting).
 12. See, e.g. Overholser (1998); Newport (1998) (Lewinsky scandal has resulted in press practice of releasing unfettered information to the public).
 13. See, e.g., Burke (1998) (citing a *New York Times*/CBS poll documenting that the public's view of the President's moral character has sunk to its lowest level, but that most Americans still believe Clinton to be a vigorous leader); Anon. (1998) (citing a CBS survey recording Clinton's approval rating at 67%, despite the fact that most Americans claimed to respect the President less as a person). Indeed, the release of the videotape of President Clinton's grand jury testimony on September 21, 1998 actually resulted in a temporary increase in his overall approval ratings (Connelly 1998; Baer 1998; Lawrence 1998).
 14. See Williams (1998) (crediting the Drudge report with producing an unedited flood of Lewinsky scandal coverage); Noah (1998) (arguing that the Drudge Report, by 'scooping' the mainstream media, escalated the intensity and explicitness of the Lewinsky coverage).
 15. Thus, the question is not whether journalists will publish unconfirmed stories about private sexual behaviour because someone else who lacks their investigatory standards publishes these stories. The question is whether journalists will publish 'private' information, which is believed to be true by their existing journalistic conventions of investigation after someone else has published it. Once that happens, there are very strong pressures to disseminate it.
 16. This applies, with some modifications, to the British Royal Family and its current problems. Beginning in the 1950's Queen Elizabeth II attempted to use television as a device to modernise the monarchy by portraying the British royal family as a model family that Britons could relate to. The result of this campaign over the years was to make the British monarchy more human, and thus more 'transparent' to the public. However, the campaign had an unintended side effect – it turned the royal family into television characters and television celebrities. Princess Diana was the most obvious example of this tendency. The problem with making British Royalty into television celebrities was that it also increased the public's and the media's sense of entitlement to know about the details of their private lives. Formerly the British Royals were wrapped around a veil of secrecy that supported the public's image of them as role models and icons of respectability. But under the glare of publicity, they were revealed to be just as dysfunctional – if not more so – than the average British family. Their image and the British public's confidence in them have suffered as a result. See, e.g., Anon. (1997) (describing coverage of the death of Princess Diana in context of the historical evolution of the cult of celebrity surrounding the British royal family); Judd (1994) (noting that after many years of pretending to be the ideal family, the British royal family has been revealed to be dysfunctional); Zweininiger-Bargielowska (1993) (comparing the lurid press coverage of today with high hopes held for the British Royal family in the 1950s); Hoggart (1987) (describing how media coverage has revealed unpleasant facts about the royal family).
 17. Bill Clinton, for example, won two presidential elections by consistently making voters feel that he personally cared about them. Indeed, one of the clichés most often used to describe President Clinton's personal style is his famous remark delivered in the 1992 campaign that 'I feel your pain.' Clinton has proven himself a master at pushing himself – his emotions, his desires, his empathy, his appetites, even his moments of personal pain – at the American public. Clinton is the master emotional exhibitionist, which is why he is also one of the most effective politicians of his time. Nevertheless, he who lives by ethos shall die by ethos. It is no accident that accusations of bad character have continuously swirled around President Clinton. His political style – which is also his personal style – actively invites discussion of his character because so much of his appeal comes from his personality and his apparent emotional closeness to the voting public.
 18. See, e.g., Kurtz (1998) (citing sloppy investigation and unbalanced reporting in coverage of the Lewinsky scandal); Gitlin (1998) (noting release of the report by the Committee of Concerned Journalists criticising media coverage of the scandal); Snoddy (1998) (describing condemnation of the Lewinsky coverage by *Brill's Content*).
 19. For discussions of the origins of ABC's *Nightline* in the Iran Hostage Crisis, see, e.g., Kurtz (1996); Biddle (1995); Quindlen (1994).