

Book Review

The Book Reviews section will introduce you to the latest and most interesting books on a wide range of topics pertaining to the law and policy of data protection. For further information on the submission of reviews please contact the Book Reviews Editor Bart van der Sloot at b.vandersloot@uva.nl.

No Place to Hide – Edward Snowden, the NSA and the Surveillance State

by Glenn Greenwald

Hamish Hamilton, 2014, 272 p.

£ 16; Hardcover

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If Edward Snowden was the spark of the worldwide debate about privacy, Internet freedom and state surveillance, Glenn Greenwald was the one to fan the flames by actually bringing the revelations of the former NSA contractor into the public eye. “No Place to Hide” tells Edward Snowden’s story and that of the disclosure of the classified NSA documents which have caused a worldwide upheaval with regard to state surveillance. With his background as a constitutional and civil rights lawyer, Greenwald is also able to provide insight into the underlying legal problems of the NSA surveillance. In doing so he contributes to the global discussion about the need for oversight over the activities of national security agencies. He points to the fact that we have come to a crossroad in history where the Internet could evolve either into a tool for oppression or into a tool for freedom.

The book is structured into five major chapters of which the first two tell the story of the initial contact between the author and Edward Snowden and their stay in Hong Kong. This is followed by a chapter detailing the various spying programmes of the NSA and the vastness of the surveillance apparatus, a chapter about the value of privacy as an inherent part of being human as well as about the dangers of surveillance for individual freedom and a final part criticizing the establishment media for serving political interests instead of those of the citizens. Finally, the

epilogue deals with the consequences that Edward Snowden’s disclosures have triggered at US and global level and points to the need to reclaim online privacy and limit state surveillance. The endnotes and the index of the book can be found online.¹

The major asset of “No Place to Hide” is the fact that it provides the reader with a better understanding of the NSA surveillance programmes. So far, there has been a lot of talk about “Prism” and the Foreign Intelligence Surveillance Court (FISC) order directed to Verizon. But Greenwald depicts a far more complex spying apparatus that extends also beyond US borders. According to the “Boundless Informant” programme, the NSA would count all telephone calls and emails that it collects every day from around the world. One of the examples taken from the book illustrates how in only one month a single unit of the NSA had collected data on more than 3 billion telephone calls and emails passing through the US. “Project Bullrun” – a joint action between the NSA and the British GCHQ – would aim at breaking online encryption while “Egotical Giraffe” targeted the Tor network to break anonymity and “Muscular” was directed at invading the private networks of Google and Yahoo. “X-Keystore” is depicted by Greenwald as the widest-reaching system for collecting electronic data, which captures almost everything an average user would do on the Internet. The programme would not only allow for the collection of data but also for searches in the system’s database by identifying attributes such as email and IP address or telephone number. In addition, Greenwald points to so-called “corporate partnerships” through which the NSA would seek to include the world’s most influential corporations and telecommunication operators in its surveillance apparatus. Projects such as “Blarney”, “Fairview”, “Oakster” and “Stormbrew” build on such partnerships that provide the systems and access on which the NSA depends.

Greenwald manages to draw a vivid picture of the vastness of surveillance, which extends beyond reasons of national security, as claimed, to economic es-

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¹ <<http://glenngreenwald.net/>>.

pionage, diplomatic spying and bulk surveillance of entire populations without specific suspicion to justify it. He also describes the methods used which range from the direct data collection from the servers of US companies, to tapping into fiber-optic cables and other forms of infrastructure. More tailored operations such as “Computer Network Exploitation” entail placing malware on computers to survey their users. According to the author, the final aim is to “collect, store, monitor and analyze all electronic communication by all people around the globe.” (p.94)

He also deconstructs the “nothing to hide”-argument. This is an important point to make when talking about surveillance as all too often this argument is used not only by those imposing the surveillance but also by the potentially surveyed persons themselves. People are still unaware of the full extent of the encroachments into their private realms. Under the false argument of having nothing to hide they unknowingly consent to intrusions into their privacy. Greenwald highlights the value of privacy for the self-development and freedom of individuals and points to a more subtle effect of the deprivation of privacy. He argues that mass surveillance leads to a blind conformity with the rules and annihilates dissent in the very mind of the individual who thinks and acts only in line with what is expected or demanded.

Greenwald’s legal background is a plus when it comes to having a closer look at the underlying legal basis of the NSA surveillance represented by section 215 of the US Patriot Act (as regards access to records) and section 702 of the FISA Amendments Act of 2008 (which authorizes foreign surveillance programmes by the NSA). It is however regrettable that the author fails to address the legal aspects in a more structured manner which would have provided a better understanding of the US legal surveillance framework, particularly in light of its interpretation and application according to the distinction between US and non-US persons. Instead, the references to the legal provisions are scattered over the book so that the underlying legal problem is not so easy to grasp, especially for an untrained reader from this side of the Atlantic.

Another of the book’s setbacks is the fact that the author does not clearly differentiate between unlawful interception and unlawful access to the retained data. Moreover, it is not clear which of the NSA’s programmes are based on the collection of content data and which on the collection of metadata. Both distinctions would have been helpful to be used as ref-

erence in the international debate on these controversial matters. The book is a mix of journalistic recording of facts, sprinkled with legal references. A better structure would have probably added significant value to the text, but the author opted rather for a historical narration of the facts.

Irrespective of these points, Greenwald’s book can be particularly interesting in the light of the European debate around the Data Retention Directive, which was invalidated by the CJEU in March 2014². The major point of criticism of the Directive was that it allowed for the mass suspicionless surveillance of all Europeans despite the fact that it did not provide for the retention of the actual content of the communications. It is the same generalized, suspicionless surveillance that Greenwald criticizes. He, too, dismisses the argument that the collection of metadata should not be seen as intrusive. Moreover, in Europe, the NSA revelations have led to the invalidation of the Safe Harbor agreement by the Court of Justice of the European Union as a consequence of a reference for a preliminary ruling made by the High Court of Ireland.³ The author’s detailed description of the NSA programmes may thus also represent a valuable starting point as regards the assessment of the impact of the US surveillance on the rights of EU citizens.

In sum, Greenwald’s book provides a better understanding of the complexity and wide scale of the US surveillance. It also puts the US polemic into global perspective and is thus a contribution to the international debate about the value of privacy in the digital age. At the same time the author deconstructs major arguments brought forward against the criticism of the US surveillance practices and points to the need for reconsidering our general standpoint with regard to privacy and the exercise of our freedoms.

“No Place to Hide” is an exciting read especially for those with little knowledge of the dimension of the NSA programmes. At the same time it provides the opportunity for the readers to find out more about Edward Snowden himself as well as about the man who – although not alone – made the revelations possible.

2 See also Tijmen Wisman, *Privacy: Alive and Kicking* (Digital Rights Ireland: Joined Cases C-293/12 and C-594/12), EDPL European Data Protection Law Review, 1/2015, pp. 80-84.

3 CJEU, C-362/14, Maximilian Schrems v Data Protection Commissioner, judgment of 6 October 2015.