**IN EXAMINATION OF BIG BROTHER**

A Critical Examination of James Taylor’s *In Praise of Big*

*Brother*

Ryan Rinaldi

James S. Taylor argues, in *In Praise of Big Brother*, the controversial point that a society should accept and consent to constant surveillance from its State. Not only should society accept this surveillance due to its benefits, Taylor argues, but it is completely morally permissible for the State to do so. “In Praise of Big Brother” leads with a conditional argument to lead the reader logically to the paper’s conclusion: it is moral for the State to place its citizens under constant surveillance. This is followed by an explanation of some of the advantages a society could enjoy from such a system. Finally, Taylor addresses the most obvious counterpoints to his claim, refuting each one until his argument remains seemingly unopposed.

Taylor’s conditional argument relies on two premises: the first that *if* it is moral for the State to secure information about past events, then it is moral for it to secure such information using surveillance technology, and the second that it is indeed morally permissible for the State to secure such information. Thus, the conclusion follows logically: it is morally permissible for the state to use surveillance technology to gain information about past events. The premises themselves seem strong and acceptable by many; Taylor argues that few would oppose these points. If the State needed to secure information about, for example, a convenience store robbery, it makes no sense for the State to be able to seek information about the robbery through witnesses and evidence, but not any security cameras that may have captured the event. Thus the method in which the information is secured matters little, supporting Taylor’s first premise. Taylor’s second premise is likewise strong and difficult to argue against; few would be willing to argue that the State has no right to attempt to gather information about the robbery and make an arrest based off of the gathered evidence. Taylor’s argument is certainly valid; if we accept the premises, then it becomes sound. Taylor essentially forces the reader to entertain the uncomfortable argument that universal, pervasive surveillance from our government is morally permissible.

There is a very significant condition that is central to Taylor’s entire argument: the State does not access all the surveillance information, it only accesses whatever is deemed morally permissible for it to access. In the case of the convenience store robbery, the state would not have moral access to all of the store’s surveillance data; it would only be able to access whatever was necessary to determine the nature of the robbery and the identity of the offender. It is primarily this condition, Taylor argues, that makes his ethical and non-invasive. If the State only accesses what it has a moral right to access, how is it committing any moral crime? Citizens understand that their every move is not being monitored; the surveillance footage is only viewed when necessary for a certain moral goal. Furthermore, Taylor points out that it would be immoral for the State to ever place surveillance devices in a person’s private property. It is impossible to place these devices without gathering some unnecessary information of the occupant’s lifestyle; this information is not needed for any particular moral goal of the State, so this information is unnecessary and immoral to access. Taylor is not concerned with the process of determining the criteria that determines what information is accessible, claiming that it is irrelevant to the idea of universal surveillance. Since neither the State nor anybody else know when security footage will be important before it happens (i.e. it is impossible to determine when to record the convenience store to catch the robbery taking place), all recordings are access in hindsight. “The State… can only use hindsight to determine what information is morally permissible to have access to, for it will only become clear in retrospect what information is relevant” (Taylor 228). This illustrates Taylor’s next point: the idea of relevancy.

If the State determines to does have the moral right to access previous records for some moral cause, then it has the right to access only the information pertinent to that cause. If it is investigating the convenience store robbery, it only has moral access to any records that may help the State determine the exact nature of the robbery. The State commits a moral crime if it allows any unnecessary information to be accessed, as it then access more information than it has a moral right to. Thus, by using hindsight, the State should have an idea of what information needs to be accessed for its cause.

Taylor moves on to describe the advantages of implementing such a system of surveillance. These advantages include more accurate testimony in criminal trials, and an overall decrease in the crime rate. Taylor is quick to point out that witness testimony has a notorious reputation for inaccuracy. The State would be able to guarantee a completely accurate transcription of the past events in question given the correct use of such surveillance technology. Cases based on witness testimony would not have the same degree of accuracy, and States that do not incorporate Taylor’s ideas of constant surveillance run the risk of wrongly sentencing its citizens due to inaccurate witness testimony. Furthermore, the witnesses themselves would be spared the trouble of travelling to the location of the hearing, as well as any potential threats that may be made by either side if the witness does not testify as they wish. Taylor describes the new surveillance society as having no reliance on witnesses; a benefit both for the would-be witnesses as well as the justice department. Taylor also describes how knowledge of the surveillance would significantly reduce crime; criminals would be undoubtedly less likely to perform crimes with the knowledge that it would be recorded and later reviewed.

After describing the advantages of his surveillance state, Taylor describes each of the major objections to his thesis. The first is that the likelihood of potential abuse is high. This entails State officials using the surveillance technology for information it does not have moral permission to access; either for personal use or some other motive. Taylor responds to this concern to two major audiences: the rights theorists and the consequentialists. To the rights theorists, Taylor points out that abuse of the system does not necessarily imply that the system itself is unjust. Since rights theorists are not adopting a view of the situation based on overall utility, a system that is morally good but loses utility due to abuse is still moral overall to these theorists. “A rights theorist who was a proponent of State surveillance could argue, to offer the possibility of abuse as an objection to constant State surveillance is to confuse the moral status of different possible uses of such surveillance” (Taylor 234). Thus, while abuse should be avoided and prevented if possible, it does not make the State surveillance case any less compelling. Against consequentialists, Taylor clarifies the difference between major violations and minor abuse. Major violations occur when the State itself willingly uses the surveillance technology to oppress its citizens. These are done with intent by the leaders of the State. Minor violations occur on an individual level, when a single or small group of State employees abuse the surveillance technology for personal gain. Taylor is not extremely concerned with responding to the risk of major violations; a State that would ever commit major abuse of surveillance would likely never have proponents for Taylor’s State surveillance. “If the State were prone to abuse it citizens in this way prior to the installation of such a system, this would provide good consequentialist grounds for resisting introduction” (Taylor 235). In other words, Taylor believes that a consequentialist living in a State prone to major abuse or oppression would never consider State surveillance, and it likely should not be implemented in such an environment.

Regarding a minor violation, Taylor explains that there must obviously exist safeguards against such action. Additionally, since Taylor is preparing this response for a consequential query, he is able to return with a consequential rebuttal. If victims of these minor abuses never know they are victims (if the offense is never revealed), would the victims be truly harmed? Taylor challenges the consequentialist to find the net utility lost when the victim has no awareness that any foul has befallen them. Using the work of the philosopher Joel Feinberg, Taylor tries to determine what kind of utility is lost in such a case. He ultimately comes to the conclusion that a person is harmed by an unknown foul only if such a foul impacts the victim’s autonomy, and affects what actions the victim may take in the future. “Given the draconian penalties that would be imposed upon those who engaged in such minor abuse of the system it is unlikely that its victims would be upset by it as a result of gaining such knowledge” (Taylor 237). Thus, both the major and minor abuses by the State have been rebutted.

The second objection to Taylor’s State surveillance argument is that it is not permissible for the State to gather information about past events in the first place; this directly counter Taylor’s second premise, or the condition his argument is based on. Taylor is fairly quick to dismiss this rebuttal using examples where such logic is obviously flawed and sub-optimal. Specifically, Taylor addressed cases where providing testimony as a witness had inconsequential costs, but great rewards using the example of the John F. Kennedy assassination. “Assume Lee Harvey Oswald really was innocent of the assassination of John F. Kennedy, and, to prove his innocence, needed to secure the photograph that was taken of him… here, it would be morally permissible for the judge in Oswald’s case to to require that the owner of the photograph produce it in evidence” (Taylor, 238). Taylor’s point is that with the conditions of this objection (that it is immoral for the State to seek information of past events), such an action would become illegal, even though it is morally permissible. If such an act by the State was ruled immoral, cases would have to be decided without the use of evidence; a strong argument against such a perspective.

The final objection Taylor addresses is the idea that surveillance violates the privacy of those subjected to it. Taylor addresses this issue by explaining his definition of privacy.For privacy to exist, he argues, there must be two people and some information that belongs to one person but not the other. Privacy exists only over that information, and is only violated when the person without the information, who has no moral claim to the information, accesses it. If, however, the person without the information does have moral claim to access it, then there is no violation of privacy. Taylor directs his reader towards the arguments made earlier in the paper; about the necessary requirements of the State before they are able to gather data. Thus, in this definition of privacy the State becomes the person without the information, but now has a moral right to it. In this case, Taylor argues, the first person (the citizen captured on surveillance footage) has no reasonable expectation of privacy, since the second person (the State) has moral access to the information. Taylor says that, unlike George Orwell’s *1984*, citizens would understand that only certain footage would be accessed, and this would not affect the citizen’s autonomy. This was the last point made by Taylor in *In Praise of Big Brother* before he concludes the paper. There are some problems with his argument that have not been accounted for, however.

The first significant problem Taylor fails to address is the idea of accessing only the relevant information for a given cause. While this sounds good in theory, there is no way to prevent the State from accessing illegal information. There are also minor problems with Taylor’s assertion that hindsight alone could be used to determine what information was necessary for access. Finally, Taylor uses his own definition of privacy, and fails to address how his system of “gathering” information as opposed to “accessing” information applies to such uses.

One of the most significant foundational pillars of Taylor’s argument is the idea that the government only accesses what it has a moral obligation or right to access for the purpose of some moral goal. However, any information that does not immediately aid in the State’s completion of such a goal is illegal information and the State commits a privacy violation if such content is accessed. The problem with Taylor’s argument is that such content is impossible to filter out; the State will constantly be accessing information it has no moral right to access. For this reason the State is never allowed to put surveillance devices inside people’s homes or other private property, because in the act of placing such devices they are inadvertently accessing information about the location and resident’s lifestyle that they have no right to. An example of this kind of violation can be seen in the convenience store robbery scenario. Say the State is seeking to prosecute a suspect of the store robbery and want to review the security footage to verify that the suspect is indeed the person who robbed the store. However, the footage also shows a colleague of the State access officers who has yet to “come out” romantically involved with his male partner, as well as other customers in the convenience store shopping. Under Taylor’s description of relevant and moral information, even viewing the shoppers and seeing what clothes they are wearing, what they are buying, and how they are acting is a violation of privacy because such information is not relevant to the case at hand. Every single element of information that does not directly help the State identify the convenience store robber is a violation of privacy and an access of illegal information. This information is always impossible to filter; there is no way to have the footage only show information relevant to the robbery without having a technician pass over it first. Most information like the shoppers in the background is inconsequential, but the inadvertent reveal of the gay colleague may reveal information that the colleague was not ready to disclose yet. No matter the recording device or context, there is no way for the State to guarantee that it will not access morally “off limits” information, making every use of the surveillance records a breach of moral contract.

Additionally, hindsight poses an interesting limit on what may and may not be accessed. Taylor argues that only hindsight is accurate enough to determine what should be accessed, so information should only be accessed when hindsight suggests its importance. However, a hypothetical serious bomb threat situation seems to suggest that other elements may prove to be just as helpful. If use of surveillance footage in real-time could be used to more accurately stop a potential terrorist attack, should it not be used as such? What use is the surveillance technology if it is only used after harm has already been done?

Taylor also argues that because only relevant information is being accessed, there is no violation of privacy. Once the State has a moral claim to review a person’s past actions, there is no longer such an expectation of privacy. One objection, however, is that citizens have a right to live without being recorded. Merely the fact that their every action is recorded, even though it likely would not be accessed, is already a violation of privacy. In other words, the privacy violation does not occur when the State views the recorded information; the act of recording itself is a privacy violation, as it creates the opportunity to view the information at any time. There is also objection to the type of damage that could be caused by constant surveillance on a psychological level. Evidence suggests that people thrive less and are overall less healthy when they know they are under constant surveillance. From a eudaimonistic perspective, such use of surveillance would reduce overall health, and thus reduce the only intrinsic good: human “flourishing”.

Taylor did not directly address these criticisms in *In Praise of Big Brother*, but from his work there is evidence to suggest what his response may be. Regarding the inadvertent access of irrelevant personal information when viewing footage that also contains details of a crime, Taylor may argue that the benefits of a just punishment outweigh the minor privacy violations. However, this consequentialist response would be inconsistent with his previous arguments, in which Taylor claimed that information accessed would not violate any privacy expectations at all. This defense is essentially a rehash of the “security vs. privacy” debate, in which some philosophers argue that security priorities always trump privacy priorities, with others arguing that security should not always trump privacy. A stronger defense that Taylor may employ is that the subjects of the surveillance film are in public, and thus, have no reasonable expectation of privacy. This is further strengthened by his argument that surveillance devices could never ethically be placed in homes or other private property. However, Taylor would have to modify his argument in response, and claim that constant surveillance would be unethical, instead arguing for constant surveillance strictly in public places only.

Taylor may address the issue of the use of surveillance footage to stop a bomb threat with his argument that hindsight is the only factor strong enough to justify the access of information. Since he has already defended hindsight as the only factor strong enough to justify surveillance access, he would argue that a threat is not enough evidence that surveillance footage would need to be accessed, and that doing so would be a violation of privacy (viewing footage without reasonable moral cause). This is such a strong counterpoint because it puts him on the other side of the argument from the previous counterpoint, where he responded that minor elements of irrelevant information are unavoidable and must be accepted.

Finally, when faced with the idea that recording itself is harmful (not just the access), Taylor could potentially respond by strengthening his idea that only the access is harmful, and directly countering the claim of harm caused by surveillance. However, if faced with any evidence that humans are unable to flourish under constant surveillance, even with the understanding that such footage would likely not be accessed, Taylor faces a difficult argument. It would be easy for him to suggest hiding the surveillance devices, so citizens do not know they are being monitored, but he already argues for a transparent use of such technology, and use of such footage in public court would reveal the presence of such devices. Against this argument it is difficult to determine how exactly Taylor may respond, but it seems like he would directly counter the idea that the action of recording (without accessing) is itself harmful in any way.

My personal opinion regarding Taylor’s essay is critical; I believe that Taylor’s good points are outweighed by the inconsistencies of his argument. I accepted many of his advantages of such a system, and have to admit that his idea would certainly bring some benefit. I do believe the cost, however, outweighs the benefits of this system. I also am not sold on his defense against abuse of the system: the argument that “potential abuse of the system does not mean that the system is inherently bad” does little to counter the idea that abuse is still a very real threat that would need to be accounted for by more than “draconian penalties and strict overwatch. Finally, Taylor builds so much of the ethics of argument on the basis that only information that the State has moral permission to access will be accessed, but fails to address how to filter unnecessary information when reviewing the permitted information. In the end, this criticism targets a major pillar of his argument; without it, Taylor’s essay fails to carry much of the weight created in the later sections of Taylor’s paper. Until those major criticisms are addressed, I do not believe *In Praise of Big Brother* can be seriously considered.