

Privacy

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Is privacy valuable? The answer is 'yes', although it is not always easy to describe and evaluate privacy, or to determine its likely consequences for ourselves and others. Proponents of privacy believe that it promotes people's freedom*, equality* and happiness, by shielding us from unwanted forms of contact and influence by others. However, sceptics worry that privacy therefore leaves the weak and vulnerable at the mercy of the powerful. (Leach 1968, Woolf 1929). There is some truth in each of these claims, because protection for privacy is not costless, and may sometimes prevent us from speaking our mind, learning from others, or acting as we should. Moreover, the likely consequences of privacy for people's freedom*, equality* and happiness depend on how we describe and evaluate it. Hence, some ways of thinking about privacy place it on a collision course with the freedom of women and their equality with men, although there is nothing intrinsic to privacy which means that it must have such effects. Conversely, privacy can help to protect people from unjustified scorn, humiliation and recrimination, as well as from bribery and coercion, although there is nothing inevitable about that, either. Put simply, the value of privacy depends on what we think and what we do - collectively, as well as individually.

Describing Privacy

Privacy is associated with a variety of things, typically polarised around control of personal space, personal information, and personal relationships, because privacy sets limits to the way that outsiders can interfere in our lives. Thus, some synonyms for privacy refer to seclusion, to selective access to an area such as a garden, or a house or apartment, and also to its exclusive or selective, rather than inclusive, character. When associated with control

of information, synonyms for privacy centre on ideas of confidentiality, anonymity, secrecy, limited disclosure and control of access to information – whether factual, artistic, scientific, legal, religious or metaphysical. Finally, when referring to relationships, privacy is associated with the intimate, the sexual, the familial, the personal, and the domestic.

Secrecy vs intimacy

These are rather different things, and though it is fairly easy to see certain practical, historical and psychological associations amongst them, the things 'privacy' refers to are not tightly related. For example, private space can foster the ability to tell people we know and trust* things that we would not want to share with others and to share jokes, confidences and practical information in ways that enhance our ability to define and shape our relationships. But it can also prevent us from discovering who knows what about us, who has been saying what about us, and who plans to do what to us. So, privacy can foster hypocrisy, deceit and mistrust as well as frankness, mutual confidence or love*; and can threaten, rather than promote, our sense of security, autonomy and tranquillity. In short, the effects of secrecy, intimacy and anonymity on our behaviour and relationships are varied, and this means that the consequences of privacy are often unpredictable.

Nor is that all. Within each category, the things to which privacy refers seem only loosely connected, which makes it hard to tell whether there is any logical or conceptual connection between the different elements of privacy, as commonly understood. For example, exclusivity can foster seclusion, whether we are thinking of exclusive clubs and dining societies, gated housing associations for the rich, or very up-market jewellery and clothing stores, with their sentries on the door and deliberately intimidating personnel. Still, if seclusion is an attribute of exclusivity, exclusive use, access and ownership* are not essential to seclusion. In fact, how necessary they are probably depends on our access to public spaces like parks, gardens, roads and countryside, as well as to cinemas, museums and other public buildings which can be quite secluded and peaceful, although they are open to all-comers.

The term 'privacy', then, refers to a cluster of rather heterogeneous things, which it is sometimes helpful to distinguish, although the term 'privacy' can be used with linguistic

propriety and efficacy in all these different ways. Indeed, attention to the diverse aspects of privacy counsels against reductive approaches to privacy which seek to capture its nature and value by reducing privacy to one of its aspects – to intimacy or seclusion, for instance – or by trying to replace talk of ‘privacy’ with something else – usually, private property* or autonomy. (Allen 1988, Inness 1992, Thomson 1986, Gross 1971).

Private property* is not synonymous with privacy. That is why access to public spaces and facilities can be essential to our privacy, given that many of us live in crowded apartments, whether privately owned or rented, and must get out if we are to have some time to ourselves or a heart-to-heart with friends. Privatisation of public space can therefore undermine, rather than promote privacy, and illustrate the importance of collective, rather than personal, property to our prospects for seclusion, solitude, intimacy and confidentiality.

Privacy and autonomy

Nor is privacy synonymous with autonomy, although it enables us to reflect and act without consulting others. (Gross, 1971) To suppose otherwise is to ignore republican concerns about the way that privacy can subvert self-government, by limiting accountability to others, and to ignore feminist critiques of the ways in which privacy for family relationships makes it difficult to prevent domestic violence and the intimidation and exploitation of women by men. (Tocqueville 1840, Allen 1988) (REF?). Looking at America in the early 1830s, Alexis de Tocqueville worried that the modern citizen would increasingly become so caught up in his private affairs that “s’il lui reste une famille, il n’a plus de patrie”, and in a searing indictment of modern forms of privacy, Catherine MacKinnon insisted that legal protections for privacy have “preserved the central institutions whereby women are *deprived* of identity, autonomy, control and self-definition”, because privacy makes it difficult to know what is going on within families, or to change relations of power within them. (Tocqueville 1840, MacKinnon 1987) As we can understand these concerns, even if we do not share them, it is clear that the value of privacy – whatever it is – cannot be reduced to the value of autonomy or self-government, however close the connections between them. In short, the relationship between privacy and property ownership, on the

one hand, and privacy and autonomy on the other, is a matter for empirical investigation, for normative reflection and for political action, because it is not determined by the meaning of our concepts themselves.

Privacy and democracy

We cannot describe the nature and value of privacy without making complex, often implicit, assumptions about the ways of the world, and our place within it. For example, our ideas about the nature and value of privacy depend upon our beliefs about the value of confidentiality and intimacy for ourselves and others. If these assumptions are mistaken, it is likely that our ideas about privacy will be mistaken, too. If these assumptions are at odds with the claims of ordinary people to govern themselves, then our ideas about privacy are very likely to promote beliefs, desires, habits and relationships which foster arbitrary inequalities* between individuals and groups, and promote coercion and intimidation in their personal as well as political relations. For example, the idea that there has to be one 'head of household' and that this head has to be a man, rather than a woman, is clearly both mistaken as a matter of fact, and at odds with sexually egalitarian norms and ideals.. However, it shaped the law of modern democracies for many years, and it was only in the 1973 Guardianship Act that women in the UK were able to become the legal guardians of their children, so long as their husbands, or ex-husbands were alive. (Cretney, 1998)

Likewise, American practices of 'employment at will', which enable employers to hire and fire workers for 'good reason, bad reason and no reason at all', mean that American workers generally lack forms of privacy which their European counterparts take for granted, because the workplace is seen as the private domain of employers, rather than as a place in which people must learn to compete and cooperate as equals. (Finkin, 1996)

The ideas and practices of privacy which we have inherited from the past are deeply marked by beliefs about what is desirable, realistic and possible which predate democratic government and, in some cases, predate constitutional government as well. However, it is clear that we cannot treat people as equals, or protect their capacities for self-government, in the absence of opportunities for seclusion and solitude, intimacy and domesticity, confidentiality and the control of personal information. So while many forms of privacy are

inimical to democracy, we can foster democracy, as well as sexual equality, by enabling workers to keep their marital and procreative plans to themselves, along with their charitable and political affiliations, or their attitudes to religion. Conditioning access to paid employment or promotion on employer knowledge or approval of such things is to concentrate power in ways that are incompatible with democracy, and to undermine the idea that workers, as much as employers, are entitled to shape the world they live in.

Privacy is valuable, if we care about equality and democratic government because it enables us to treat people who are quite diverse in their tastes, desires, beliefs, interests, capacities and needs as equals in matters that fundamentally affect their well-being and happiness. Protection for privacy means that there is no need for a collective decision about what we should eat, who we should marry, or the goals we should set ourselves in life, and therefore no need for the government publicly to take a stand on these, or to favour those of some people over others. John Stuart Mill was therefore right to insist on the importance of liberty of tastes and pursuits to people's freedom, as well as to their well-being although, *On Liberty* tends to exaggerate the importance of individuality to material and moral progress. (Mill 1869) As Mill saw, freedom to form and act on our sense of beauty or of humour, is as important to our sense of ourselves as individuals, and to the character of our society as the protections it offers for freedom of conscience or religious expression. Protections for solitude, seclusion, friendship, love and confidentiality are necessary to protect us from stultifying conventions, intrusive paternalism and coercion in the one case, as in the other, although Milan Kundera's novel, *The Joke*, reminds us that the ability to make risqué jokes in private is no substitute for freedom of public dissent and expression.

The value of privacy, however, is not purely instrumental if we care about democratic government or the equality of individuals. On the contrary, protection for privacy is valuable for its own sake, as well as instrumentally, because it embodies individuals' claims to be trusted, valued and cared for in their own right, rather than for what they contribute to the wellbeing of others, or to the promotion of a cause. In their different ways, both the secret ballot and consensual marriage reflect the instrumental and non-instrumental value of privacy in a democratic society. Instrumentally, they help to minimise – even if they cannot wholly remove – forms of coercion, intimidation and domination which undermine people's standing as free and equal citizens, and their sense of themselves as people whose

wellbeing and happiness matter. In addition, such protections for privacy embody the idea that people are individuals whose beliefs, feelings and prospects matter to the determination of collective ends, even when their personal ends are in conflict with those of others.

Privacy, then, can be valuable, although it has, historically, been the privilege of the rich and powerful, and served to immunise their powers* and resources from critical scrutiny and change. The ability to realise that value, however depends on what we do, as well as what we think. If it is unlikely that privacy will be valuable unless we describe in it ways that reflect our values, so it is unlikely that it will be valuable unless we make concerted efforts to realise them. This is not because all values are relative – although there is, inevitably, a comparative aspect to what we value. Rather, it is because the world is not impervious to human desires, beliefs and actions. What we think and do, then can change the value of privacy for ourselves and for others, even if individual efforts are rarely sufficient for social change. We therefore have compelling reasons to democratise our practices of privacy and to resolve disputes about its value in light of our best assumptions about people's interests and capacities for self-government: in this way we can recognise that the value of privacy is personal, as well as political, and that the one is inextricably tied to the other.

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