**Handouts of Lecture 18 Professional Practices (IT)**

**Lecture Title: Information Privacy**

**Perspectives on Privacy**

**Defining Privacy**

Philosophers struggle to define privacy. Discussions about privacy revolve around the notion of access, where access means either physical proximity to a person or knowledge about that person. There is a tug-of-war between the desires, rights, and responsibilities of a person who wants to restrict access to himself, and the desires, rights, and responsibilities of outsiders to gain access. From the point of view of an individual seeking to restrict access, privacy is a “zone of inaccessibility” that surrounds a person.

You have privacy to the extent that you can control who is allowed into your zone of inaccessibility. For example, you exercise your privacy when you lock the door behind you when using the toilet. You also exercise your privacy when you choose not to tell the clerk at the health club your Social Security number. However, privacy is not the same thing as being alone. Two people can have a private relationship. It might be a physical relationship, in which each person lets the other person become physically close while excluding others, or it might be an intellectual relationship, in which they exchange letters containing private thoughts. When we look at privacy from the point of view of outsiders seeking access, the discussion revolves around where to draw the line between what is private and what is public (known to all). Stepping over this line and violating someone’s privacy is an affront to that person’s dignity. You violate someone’s privacy when you treat him or her as a means to an end. Put another way, some things ought not to be known. Suppose a friend invites you to see a cool movie trailer available on the Web. You follow him into the computer lab. He sits down at an available computer and begins to type in his login name and password. While it is his responsibility to keep his password confidential, it is also generally accepted that you ought to avert your eyes when someone is typing in their password. Another person’s password is not something that you should know.

**Harms of privacy**

Giving people privacy can result in harm to society. Some people take advantage of privacy to plan and carry out illegal or immoral activities. Most wrongdoing takes place under the cover of privacy.

Some commentators suggest that increasing privacy has caused unhappiness by putting too great a burden on the nuclear family to care for all of its members. In the past people received moral support not just from their immediate family but also from other relatives and neighbors. Today, by contrast, families are expected to solve their own problems, which puts a great strain on some individuals. On a related note, family violence leads to much pain and suffering in our society.

Often, outsiders do not even acknowledge that a family is dysfunctional until one of its members is seriously injured. One reason dysfunctional families can maintain the pretense of normality as long as they do is because our culture respects the privacy of each family.

Humans are social beings. Most of us seek some engagement with others. The poor, the mentally ill, and others living on the fringes of society may have no problem maintaining a “zone of inaccessibility,” because nobody is paying any attention to them. For outcasts, an abundance of privacy may be a curse, not a blessing.

**Benefits of Privacy**

Socialization and individuation are both necessary steps for a person to reach maturity. Privacy is necessary for a person to blossom as an individual.

Privacy is the way in which a social group recognizes and communicates to the individual that he is responsible for his development as a unique person, a separate moral agent. Privacy is a recognition of each person’s true freedom. Privacy is valuable because it lets us be ourselves.

Consider the following example. Imagine you are in a park playing with your child. How would your behavior be different if you knew someone was carefully watching you, perhaps even videotaping you, so that he or she could tell others about your parenting skills? You might well become self-conscious about your behavior. Few people would be able to carry on without any change to their emotional state or physical actions. On a similar note, privacy lets us remove our public persona.

Imagine a businessman who is having a hard time with one of his company’s important clients. At work, he must be polite to the client and scrupulously avoid saying anything negative about the client in front of any coworkers, lest he demoralize them, or even worse, lose his job. In the privacy of his home, he can “blow off steam” by confiding in his wife, who lends him a sympathetic ear and helps motivate him to get through the tough time at work. If people did not have privacy, they would have to wear their public face at all times, which could be damaging to their psychological health.

Privacy can foster intellectual activities. It allows us to shut out the rest of the world so that we can focus our thoughts without interruption, be creative, and grow spiritually.

Some maintain that privacy is the only way in which people can develop relationships involving respect, love, friendship, and trust. You can think of privacy as “moral capital”. People use this capital to build intimate relationships. Taking away people’s privacy means taking away their moral capital. Without moral capital, they have no means to develop close personal relationships.

**Is There a Natural Right to Privacy?**

Most of us agree that every person has certain natural rights, such as the right to life, the right to liberty, and the right to own property. Many people also talk about our right to privacy. Is this a natural right as well?

**Privacy rights stem from property rights**

Our belief in a right to privacy may have grown out of our property rights. Historically, Europeans have viewed the home as a sanctuary. The English common law tradition has been that “a man’s home is his castle.” No one—not even the king—can enter without permission, unless there is probable cause of criminal activity. In 1765 the British Parliament passed the Quartering Act, which required American colonies to provide British soldiers with accommodations in taverns, inns, and unoccupied buildings. After the Boston Tea Party of 1773, the British Parliament attempted to restore order in the colonies by passing the Coercive Acts. One of these acts amended the Quartering Act to allow the billeting of soldiers in private homes, breaking the centuries old common law tradition and infuriating many colonists. It’s not surprising, then, that Americans restored the principle of home as sanctuary in the Bill of Rights.

THIRD AMENDMENT TO THE UNITED STATES CONSTITUTION
No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Warren and Brandeis: Clearly people have a right to privacy

We can see this evolution laid out in a highly influential paper, published in 1890, by Samuel Warren and Louis Brandeis. Samuel Warren was a Harvard-educated lawyer who became a businessman when he inherited a paper manufacturing business. His wife was the daughter of a US senator and a leading socialite in Boston. Her parties attracted the upper crust of Boston society. They also attracted the attention of the Saturday Evening Gazette, a tabloid that delighted in shocking its readers with lurid details about the lives of the Boston Brahmins.1 Fuming at the paper’s coverage of his daughter’s wedding, Warren enlisted the aid of Harvard classmate Louis Brandeis, a highly successful Boston attorney (and future US Supreme Court justice). Together Warren and Brandeis published an article in the Harvard Law Review called “The Right to Privacy”. In their highly influential paper, Warren and Brandeis argue that political, social, and economic changes demand recognition for new kinds of legal rights. In particular, they write that it is clear that people in modern society have a right to privacy and that this right ought to be respected. To make their case, they focus on—as you might have guessed—abuses of newspapers.

Thomson: Every “privacy right” violation is a violation of another right

Judith Jarvis Thomson has a completely different view about a right to privacy. She writes: “Perhaps the most striking thing about the right to privacy is that nobody seems to have any very clear idea what it is”. Thomson points out problems with defining privacy as “the right to be let alone,” as Warren and Brandeis have done. In some respects, this definition of privacy is too narrow. Suppose the police use an X-ray device and supersensitive microphones to monitor the movements and conversations of Smith in his home. The police have not touched Smith or even come close to him. He has no knowledge they are monitoring him. The police have let Smith alone, yet people who believe in a right to privacy would surely argue that they have violated Smith’s privacy. In other respects, the definition of privacy as “the right to be let alone” is too broad. If I hit Jones on the head with a brick, I have not let him alone, but it is not his right of privacy I have violated—it is his right to be secure in his own person. Thomson argues that whenever the right to privacy is violated, another right is violated as well. For example, suppose a man owns a pornographic picture. He doesn’t want anyone else to know he owns it, so he keeps it in a wall safe. He only takes it out of his safe when he has taken pains to prevent others from looking into his home. Suppose we use an X-ray machine to look into his home safe and view the picture. We have violated his privacy, but we have also violated one of his property rights—the right to decide who (if anybody) sees the picture.

According to Thomson, there are a cluster of rights associated with privacy, just as there are a cluster of rights associated with property and a cluster of rights associated with our physical self. In Thomson’s view, every violation of a privacy right is also a violation of a right in some other cluster. Since this is the case, there is no need to define privacy precisely or to decide exactly where to draw the line between violations of privacy and acceptable conduct.

Autonomous moral agents need some privacy

Thomson is not alone in disputing that privacy is a natural right. Many philosophers think privacy principles should be based on the more fundamental principle that each person is worthy of respect. We give each other privacy because we recognize privacy is needed if people are to be autonomous moral agents able to develop healthy personal relationships and act as free citizens in a democratic society.

Conclusion: privacy is a prudential right

In conclusion, philosophers disagree whether there is a natural right to privacy, but most commentators can agree that privacy is a prudential right. That means rational 236 Chapter 5 Information Privacy agents would agree to recognize some privacy rights because granting these rights is to the benefit of society.

**Privacy and Trust**

While many people complain about threats to privacy, it is clear upon reflection that we have more privacy than our ancestors did. Only a couple of centuries ago, our society was agrarian. People lived with their extended families in small homes. The nearest community center was the village, where everyone knew everyone else and people took a keen interest in each other’s business. Organized religion played an important role in everyday life. In this kind of society, there was a strong pressure to conform. There was greater emphasis on the community and lesser emphasis on the individual.

Modern culture fosters much greater privacy. Prosperity, the single-family home, the automobile, television, and computers have contributed to our privacy. The single family home gives us physical separation from other people. The automobile allows us to travel alone instead of on a bus or train in the presence of others. The television brings entertainment to us inside the comfort of our homes, taking us out of the neighborhood movie theater. With a computer and an Internet connection, we can access information at home rather than visit the public library. These are just a few examples of ways in which modern conveniences allow us to spend time by ourselves or in the company of a few family members or friends.

In the past, young people typically lived at home with their parents until they were married. Today many young unmarried adults live autonomously. This lifestyle provides them with previously unthought-of freedom and privacy.

The consequence of all this privacy is that we live among strangers. Many people know little more about their neighbors than their names (if that). Yet when we live in a society with others, we must be able to trust them to some extent. How do we know that the taxi driver will get us where we want to go without hurting us or overcharging us? How do parents know that their children’s teachers are not child molesters? How does the bank know that if it loans someone money, it will be repaid?

In order to trust others, we must rely on their reputations. This was easier in the past, when people didn’t move around so much and everyone knew everyone else’s history. Today society must get information out of people to establish reputations. One way of getting information from a person is through an ordeal, such as a lie detector test or a drug test. The other way to learn more about individuals is to issue (and request) credentials, such as a driver’s license, key, employee badge, credit card, or college degree.

**Case Study: New Parents**

Jim and Peggy Sullivan are the proud parents of a baby girl. As soon as Peggy became pregnant, they had begun exploring options for child care because both of them have full-time and highly satisfying careers in the computer field. They visited numerous day care facilities, but the ones they liked the best had no openings. For this reason they decided to hire a personal nanny, even though it was more expensive. After their daughter was born, Peggy spent three months at home on maternity leave. During this time she interviewed a half dozen nannies and hired one after carefully checking her references and giving Jim the opportunity to interview her as well. Just before the end of Peggy’s maternity leave, she has coffee with a few of her friends who are all mothers of young children. The friends tell Peggy horror stories about abusive nannies, and they all recommend a software program called LiveSecurityWatch. Jim and Peggy purchase LiveSecurityWatch and install it on a laptop computer placed in the family room. With the system in place, Jim and Peggy can use their workplace computers to see and hear how the nanny interacts with their baby. The nanny has no idea that the Sullivans’ computer is being used as a surveillance system. Is it wrong for Jim and Peggy Sullivan to secretly monitor the behavior of their baby’s nanny?

**RULE UTILITARIAN EVALUATION**

If all parents monitored their nannies or child care providers and took actions when warranted, such as firing nannies who did not perform well, it is unlikely such monitoring would remain a secret for long. Under these circumstances, nannies would be much more careful to be on their best behavior. This would potentially have the long-term effects of reducing the instances of child abuse and increasing the peace of mind of parents. On the other hand, the harms of the monitoring would be significant in terms of increasing the stress and reducing the job satisfaction of nannies and child care providers. After all, who wants to be monitored constantly? These negative aspects of the job could lead to an increased turnover rate of nannies. Less experienced nannies might well provide lower-quality care to the babies they tend. The harms of having all parents monitoring their nannies or child care providers appear to be greater than the benefits. Hence we conclude it is wrong for the Sullivans to secretly monitor their nanny.

**SOCIAL CONTRACT THEORY EVALUATION**

Social contract theory emphasizes the adoption of rules that rational people would agree to accept because they are to everyone’s mutual benefit, as long as everyone else follows the rules as well. As we discussed earlier in this section, privacy is a prudential right. It is reasonable for society to give privacy to people in their own homes, and it is also reasonable for family members within each home to give each other some privacy as well. The nanny wouldn’t expect her interactions with the baby in a park or a grocery store to be private, but it is reasonable for her to expect privacy when taking care of the baby inside the Sullivans’ home. Hence the Sullivans’ decision to secretly monitor the nanny was wrong because it violated her right to privacy.

**KANTIAN EVALUATION**

Let’s consider the morality of acting according to the rule: “An employer may secretly monitor the work of an employee who works with vulnerable people.” To evaluate the rule using the first formulation of the Categorical Imperative, we universalize it. What would happen if every employer secretly monitored the work of employees who worked with vulnerable people? If that were the case, then employees who worked with vulnerable populations would have no expectation of privacy, and it would be impossible for employers to secretly monitor their work. Hence the proposed rule is self defeating, and it would be wrong to act according to this rule. We can also evaluate this situation using the second formulation of the Categorical Imperative. As parents, the Sullivans are responsible for the well-being of their baby. In order to be more confident that their baby is safe in the care of the nanny, they choose to secretly observe the behavior of the nanny. The observation is the means to their desired end of having their baby well cared for. The nanny naturally assumes that her interactions with the baby in the Sullivan residence are private. By not disclosing to the nanny the fact that she is being watched remotely, the Sullivans have treated the nanny as a means to an end. Hence the action of the Sullivans is wrong.

**VIRTUE ETHICS EVALUATION**

As parents, the Sullivans are ultimately responsible for the well-being of their daughter. Rather than put their daughter in a day care facility they considered to be second-rate, they decided to spend more money and hire a personal nanny to care for her. That action is characteristic of good parents who put their children’s needs before their own. When the Sullivans heard about abusive nannies, it is only natural that they would become worried about their daughter’s welfare, particularly because as a baby she is truly defenseless and unable to communicate with them. According to virtue theory, parents should be partial toward their children. We can view the Sullivans’ decision to use the webcam as an action characteristic of good parents. However, we would also expect that once the Sullivans are reassured they hired a fine nanny who is taking good care of their infant daughter, they would trust the nanny and discontinue the secret monitoring.

Summary

From the points of view of rule utilitarianism, social contract theory, and Kantianism, we have concluded that it is wrong for the Sullivans to secretly monitor how well their nanny takes care of their baby. However, from the perspective of virtue ethics, the action of the Sullivans is characteristic of good parents.

**Information Disclosures**

**Public record**

A public record contains information about an incident or action reported to a government agency for the purpose of informing the public. Examples of public records are birth certificates, marriage licenses, motor vehicle records, criminal records, deeds to property, and the salaries of state employees (including your professor, if you are studying at a public institution).

Making government records public is one way to hold government agencies accountable for their actions and help ensure that all citizens are being treated fairly.

When public records were written on paper and kept in county courthouse basements, they were relatively hard to retrieve. Computerized databases have made accessing many public records quick and inexpensive, and there are a lot of good purposes to which we can put all that information. Before a school hires a teacher, it can check the candidate’s criminal record to ensure there are no convictions for child abuse. Before a transit system hires a bus driver, it can check the applicant’s driving record. Before moving to a new city, you can check out the crime rate of the neighborhood you’re interested in.

Other uses of public records may not be as laudable. Thanks to information technology, it’s easier than ever to learn a lot about someone’s wealth. For most people, their home is their principal asset. As we’ve already mentioned, you can visit Zillow.com, type in the address of someone’s house, and quickly learn Zillow’s estimate of the house’s worth, based on information about the size of the house (a public record), the selling price of the house (a public record), and recent sales of similar houses in the neighborhood (also public records).

Private organizations, too, maintain extensive records of our activities. Databases store information about the purchases we make with our credit cards, the groceries we buy at a discount with our loyalty cards, the DVDs we rent, the calls we make with our cell phones, and much more. The companies collecting this information use it to bill us. They also can use this information to serve us better. For example, Amazon uses information about book purchases to build profiles of its customers. With a customer profile, Amazon can recommend other books the customer may be interested in buying. On the other hand, companies may share information about our purchases with other companies that then send us junk mail for products we have no interest in buying.

***Reference***

***Lecture 18 slides: Information Privacy***

***Gao, Y. (2012). Ethics for the Information Age by Michael J. Quinn. World Libraries, 20(1).***