The Value and Protection of Privacy

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Abstract

Privacy is an essential part of a social structure, but its value is instrumental, rather than intrinsic. Both technology and law can play important roles in the protection of privacy, but neither can offer a guarantee. Nor can privacy be claimed as a right. The protection of privacy must ultimately rest on trust, respect and agreement. All three can be supported by technological fences and legal sanction, but neither technology nor law can replace any of the three.

Keywords: privacy, social structure, protection, trust, agreement

1. Introduction

Privacy is currently a major topic of discussion and debate in the computer world, and is often presented as a valuable right, especially in the context of electronic databases and communication. Of course privacy issues are important outside the computer domain as well, but the introduction of computers, with their capabilities for rapid and extensive communication and for elaborate correlation analysis, may well have created a perception that privacy issues are uniquely associated with computers. Two important underlying questions only rarely enter into the discussion:

> Why is privacy valuable?
> Can privacy be a right?

Privacy may be valuable as an end (an intrinsic good), or it may be useful or even essential toward some other end (an instrumental good). We can readily recognize that privacy in itself cannot be very valuable. We could achieve privacy by refraining from sharing information with others, and by arranging our lives so that others cannot observe us or intrude in other ways. That is clearly not an attractive proposition: by that approach the price of privacy would come too high. Most of us find our lives enjoyable precisely when we can choose to share information, be it thoughts, opinions, ideas, or intimacies, with a select few others. It is this sense of control over what we share, and with whom, that is at the heart of the notion of privacy. It is also what makes it so difficult, if not impossible, to protect privacy by legal or technical means. We share information with others without any means to control whether those others will further spread what we chose to share: respect for their privacy implies that we cannot inquire what they will distribute further, or to whom. Privacy, then, derives its value from the fact that, without it, we would be unable to share with only a select few our thoughts, intimacies or information. We would have to expect that anything we share with anybody could and would spread uncontrollably. In short, it would become impossible to select with whom we would share information: it would be impossible to select or make friends.

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