

“Privacy: Among the Most Fundamental of Liberties” by Amanda Robinson

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The internet is a big place, but, certainly that is an understatement, for it provides us with access to information of every kind: academic journals, wikis, news outlets, personal banking data, social media, current fashion trends and where to buy them, ancestral databases, census archives, cultural ideas like film, music, or video games, and even (perhaps, *especially*) those topics that are never discussed with polite company. The internet is an extension of our world, but unlike our “normal” lives, it offers us opportunities to directly develop a global culture, explore the uncouth, and live with greater convenience. Not only is surveilling such a vast, global arena an impossible task, it is a task that goes against the average person’s right to privacy.

Privacy is not a new concept, but rather, it is an essential part of maintaining healthy human interaction. For instance, having to spend extended amounts of time with an “unbearable person” becomes easier when one has the “distraction and relief of privacy” every so often¹ (Schwartz). While this is more true for introverted people—whose personality dispositions *require* time alone to refresh themselves—some alone time is necessary for *every* human to be able to cope with incompatible personalities. It is by mutually respecting each other’s right to alone time that we, as humans, have taken the difficult task of living with other humans manageable.

Privacy has also commonly been an integral part of maintaining intimacy in sexual relationships. Under American law, sexual acts are prohibited in public locations because the act of revealing one’s nakedness in a sexual context is culturally considered a private matter. The recent abolishment of anti-sodomy laws in more conservative states, like Texas, affirms the modern view that there is privacy “behind closed doors” to do as we wish with our bodies and

¹ Or, in other words, “absence makes the heart grow fonder.”

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our sexual partners.

We’ve extended this right to privacy during alone time and in intimate relationships to the confidentiality of our medical and academic records. There is no public database that stores the medical information of any American practitioner’s patients, and it is likewise illegal for a university to divulge academic information, like grades, to even the students’ parents if they have not been previously authorized by the student to access it.

These three separate kinds of social restrictions—restrictions to keep other people away for brief periods of time, restrictions to keep sex between only the involved people, and restrictions to keep sensitive information secure—all represent ways in which Americans affirm that they believe in the right to privacy... so why is the internet any different?

In many ways, the internet has made each of us a celebrity within our personal groups of friends. We post pictures of our vacations to Facebook to which our friends respond en masse, which is only different in scale from the massive response of the media when a celebrity is seen in Hawaii. Our search results, especially when searching for things to buy, become tailored to our interests—as if search engines are our personal assistants or our personal shoppers. We talk about our day in status updates and tweets, and we write detailed explanations of our personal opinions in blog posts, which amounts to nothing more than the information gleaned from celebrity interviews. We achieve “fame” by accepting more people to be our friends so that the number of likes, retweets, reblogs, shares, or comments on our profiles increase, in the same way that being the focus of gossip magazines provides celebrities with greater fame (or infamy).

This dimension of the internet that allows us to be something like celebrities means that internet privacy is given about the same respect as real-life celebrity privacy; in other words, there is no respect for it. Though America, except California, straggles far behind the rest of the

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world by way of giving greater privacy to celebrities,² it seems as though even the strict protections in Europe, which give celebrities a semblance of “normal” lives, do not actually allow celebrities to have full access privacy, for the European gossip industry is only slightly less profitable than America’s (Strahilevitz). For whatever reason, being famous simply eradicates an element of a person’s entitlement to privacy, no matter the form or location of that fame.

To lessen this problem of celebrities being denied the right to private lives, European countries have implemented elevated privacy rights for the elite members of society, which in turn helped to extend greater privacy rights to non-elite people (Strahilevitz). While this worked rather well in the real-life context of privacy, it is simply not able to be actualized in the context of internet privacy. We cannot get rid of the celebrity-feel of social media or personalized search results without dismantling a large portion of why people use the internet.

So, how do we extend greater rights of privacy to internet users? We have to determine the limits of privacy on the internet.

Because the internet is merely an extension of “real-life—though the extension provides us with ways to feel more significant by allowing us to manipulate it or contribute directly to its content—it is best to look toward the way privacy is given to us in the real world in order to find the limits of privacy. Beyond the social restrictions mentioned earlier, there is one important legal right that is provided to Americans: the right against unreasonable search and seizure without probable cause. The internet should not exist as some alternate reality where Americans are continuously searched because, without evidence of “probable cause,” this is illegal.

The American government maintains the appearance of respecting the Fourth

² This disparity between American and European cultures probably has something to do with the American idea that every person is supposed to have equality under the law, and there should be no such thing as a “royal lineage” for Americans (whether this is true in practice is questionable). By allowing some citizens greater rights to privacy, Americans would be admitting that each citizen is not inherently equal as important legal documents like The Declaration of Independence imply.

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Amendment on the internet by not directly tracking American citizens’ search histories; it does, however, go against this right when it acquires information from third party companies, like Google. This action is considered legal because current jurisprudence holds that when a person submits their information to a third party company, that company has no obligation to protect it (Litt). This is similar to the loophole created by the Patriot Act of 2001, where the American government can obtain an impressive amount of information for the supposed purpose of ending terrorism in the United States.

And yet, even with the Patriot Act in place for more than a decade, terrorism has not ceased to exist in the U.S. The government cannot keep close enough tabs on us—either through the books we check out from the library, what products we buy in physical stores, what radio stations we listen to, what we say in telephone conversations, where we drive within the borders of the U.S.—to stop the terroristic mass-shootings around the country and the bombing in Boston that were committed by American citizens on other American citizens. There are simply too many people, both citizens and visitors, in this country to effectively monitor every person closely enough to identify and stop terrorists (or lesser criminals) before they act.

So, why, then, is the U.S. government trying to extend the ineffectiveness of the Patriot Act to the more-largely populated cyber reality? And why is it continuing to surveille its citizens despite the obvious backlash against Congress’ two contemptible bills, the Stop Online Piracy Act (SOPA) and the Protect IP Act (PIPA)? The answers to these questions are complicated—but even still, one greater truth does stand: a government should not be feared by the people it governs, *because it is the governed that give it the right to exist.*

The problems we face with internet privacy exist because we haven’t demanded that our government uphold our Fourth Amendment right, a right that is directly enshrined in our

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Constitution. These rights, our First Ten Amendments, were not created with the efficacy of the government in mind, but rather, they were created to make the government *weaker*. Even if strict, invasive government monitoring of our lives both on- and offline worked to keep our country safe, it would still be immoral for the sole reason that that kind of surveillance conflicts with the rights used to keep us free of oppression by a dictatorial government.

The American government’s role in internet privacy should not be to utilize loopholes to gather information, but rather, it should be to protect our information from companies and foreign governments with malicious intentions. This role is outlined in the Preamble of the Constitution, where one of the purposes of the American government is listed as “provid[ing] for the common defense [. . .] and secur[ing] the Blessings of Liberty to ourselves and our Posterity.” Greater protections on sensitive information will provide a common defense for the identities and personal information of American citizens, and these protections should exist both legally by requiring that third party companies, like Google, Facebook, and Amazon, cannot freely give our information for any purpose to any unauthorized individuals, as well as in creating stronger firewalls to keep malevolent people and programs from secretly accessing our information. By establishing these protections, the blessing of this liberty of privacy can be preserved.

Privacy is a fundamental liberty afforded to American citizens, and it has been upheld by the jurors of the U.S. Supreme Court every time they have been asked to reinterpret it for the past half-century. There is no reason that the internet, an extension of our “real-world,” should not exist under the same protection of the Fourth Amendment.

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Bibliography

Litt, Robert S. "Privacy, Technology And National Security." *Vital Speeches Of The Day* 79.10

(2013): 313-321. *Academic Search Complete*. Web. 31 Jan. 2014.

Schwartz, Barry. "The Social Psychology of Privacy." *American Journal of Sociology*. 73.6

(1968): 741-752. Print.

Strahilevitz, Lior Jacob. "Toward A Positive Theory Of Privacy Law." *Harvard Law Review*

126.7 (2013): 2010-2042. *Academic Search Complete*. Web. 30 Jan. 2014.

U.S. Constitution. Preamble.

U.S. Declaration of Independence. Preamble.