

Privacy Types

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ABSTRACT

The right to privacy is one of the most problematic rights. In the absence of any consensus on a clear theoretical basis for the concept of privacy; there is hardly a link, reliable, between the various issues and topics, which are included under this right. Privacy claims are used to defend rights that seem quite divergent, such as the right not to be monitored by phone calls, and the right to know what a telecom company keeps of personal data for its customers. The absence of a clear theoretical basis for the right to privacy is exacerbated by the fact that it is exposed to multiple dangers in the era of the massive expansion of the use of the Internet and the development of its applications.

The actuality of material, described in the article, conditioned the urgent necessities of society simply to settle a question about privacy types and their appliance in the society.

Theoretical and legal conversations about the relationship between laws and privacy were investigated in the article. This paper makes a contribution to a forward-looking privacy framework by examining the privacy impacts of six new and emerging technologies. It examines the privacy issues that each of these technologies present and contends that there are seven distinct sorts of privacy. This contextual investigation data propose that a loose conceptualization of privacy might be important to keep up a smoothness that empowers new measurements of privacy to be identified, that will be understood and addressed so as to adequately react to quick technological evolution.

KEYWORDS

privacy; publicity; individual; material boundaries; symbolic

INTRODUCTION

Theoretical and legitimate discussions about the relationship between privacy and technology go back to the 1890s with the coming of portative photography technique open to the general populace. As innovations proceed to flourish, privacy conceptualisations have flourished alongside them, from a "right to be let alone" to endeavours to catch the complicity of protection issues inside of systems that highlight the social-mental, legitimate, political or economic concerns that technological innovations present.

In Ukraine, Article 32 of the Constitution of Ukraine guarantees the right to privacy, this claims that: "No one shall be subject to interference in his or her personal and family life, except in cases envisaged by the Constitution of Ukraine" (Andrievska, 2012). A few privacy aspects are also obversely ensured at the constitutional level. Therefore, the protection of the stability of lodging is ensured by Article 30 of the Constitution, privacy of correspondence, phone conversations, broadcast and other (correspondence protection) is ensured by Article 31 of the Constitution. Prohibition of use, storage, collection, and dispersal of private data around a person without her/his assent (data security) is ensured by Article 32 of the

Constitution; denial to subject a man without her/his free agree to scientific, medicinal or various investigations (protecting certain components of physical privacy) is assured by Article 28 of the Constitution.

Interference with privacy is possible only if it falls within the exhaustive list of legitimate reasons and conditions for such intervention. The normative regulation of privacy is in development now; as a result, the law enforcement procedure is characterized by inconsistencies and contradictions and largely does not ensure respect for the right to privacy.

The actuality of the article provides the evidences about the guaranteed right to privacy in Ukraine, the issue of interference in his or her personal and family life and these aspects of privacy are also protected at the constitutional level.

The concepts of publicity and privacy are covered in some degrees in various scientific publications, revealing their characteristics, history of development, current status, and especially the crisis and contradictions (R. Senet, Y. Habermas, and Z. Bauman). Presentation of the problem's theoretical background is closely linked with the current research in the branches of legal system (D. Kaspar, Ch. Fuchs, H. Nissenbaum, R. Clarke).

David Lyon states that "privacy is a fundamental lens through which numerous new technologies, and most particularly new surveillance innovations, are evaluated" (Goold, 2009, p.21). However, "privacy" has demonstrated noticeably troublesome to determine. Serge Gutwirth states "The notion of privacy stays out of the grip of each academic pursuing it. Although, it is cornered by such extra modifiers as "our" privacy, regardless it figures out how to be elusive" (Gutwirth, 2002). Colin Bennett informs that "stages to determine the concept of privacy have in general not met with any success".

First and foremost, legal researchers Daniel Solove and James Whitman have individually depicted privacy as "a curiously lubricious concept" (Solove, 2008, p.13), and "a concept in disorder. No one can explain what it signifies" (Nissenbaum, 2010, p.56). Besides, according to Debbie Kaspar "researchers have a broadly troublesome time binding the significance of such a generally used term and most present their work by referring to this difficulty" (Kasper, 2005, p.56). Although, Helen Nissenbaum has proved that privacy can be better understood with the help of the notion of "contextual integrity", where it is not the sharing of data that is a trouble, rather it is the sharing of data outside of socially concurred relevant boundaries (Nissenbaum, 2010, p.45). Political schoolers have as well talked about protection in connection to state power, contending that privacy must be comprehended in association with the other political rights that it permits people to exercise by preserving autonomy (Nissenbaum, 2010, p.11).

However, others have concentrated on the financial aspects of privacy, talking about how protection is strung through economic inequality, free enterprise and private property. Christian Fuchs notes that privacy is gainful to rich individuals and companies in the economic context because it veils income variability, while privacy is hand in hand undermined by these extremely same companies which is seeking to control consumers and employees. Feminist scientists have explored the routes in which turn to privacy have been utilized to upheld and fortify sexual orientation inequality (Fuchs, 2011, p.221). Thus, other scholars have still figured out that privacy has a social esteem likewise and, indeed, is a background of democracy itself. Serge Gutwirth clarifies why: privacy is "a foundation of contemporary Western culture since it influences singular self-determination; the self-rule of connections; behavioural freedom; existential decisions and the improvement of one's self; mind's spiritual peace and the capacity to oppose power and behavioural manipulation" (Gutwirth, 2002, p.78).

RESEARCH METHODS

Despite the fact that a generally acknowledged meaning of privacy stays subtle, there has been more accord on an acknowledgment that privacy includes different measurements, and some privacy scholars have endeavoured to make scientific categorizations of privacy issues, interruptions or classes. For instance, J. Solove declares that protection is best comprehended as a "family of various yet related items" (Solove, 2008, p.2). J. Solove reaches decision by outlining a scientific classification of privacy issues that should be tended to, paying little heed to whether they comply with an exact definition of privacy. His scientific categorization incorporates issues identified with data collection, for example, interrogation or surveillance, issues connected with data *processing*, including total, information instability, potential identification, prohibition and secondary use, data dissemination, including introduction, divulgence rupture of confidentiality, and so on and attack, for example, issues identified with interruption and decisional interference (Solove, 2008, p.18). Debbie Kaspar has additionally offered a typology of privacy intrusions arguing that privacy can't be comprehended unless inspected from inside. Debbie Kaspar recognizes attacks including extraction, perception and intrusion (Kaspar, 2005, p.69). Extraction-based protection attacks include attempting to get something from the individual. *Observation*-based privacy attacks are depicted by dynamic and on-going observation of a person, while intrusion is based on the intrusions include an "unwelcome vicinity or obstruction" in the life of the person (Andrievska, 2012, p.143).

Besides, these researchers' emphasis on the ways in which privacy can be encroached and the legitimate issue which should be explained is to a great extent receptive. They concentrate on particular damages which are already taking place and which should be halted, instead of larger protections that should be established to preserve harms. The contrast between a scientific categorization of protection damages also, a scientific classification of sorts of privacy is the genius dynamic, defensive nature of the last mentioned. It's the contrast between prohibiting kill and receiving a privilege to life. Homicide is one and only path in which life can be undermined, and a straightforward denial against homicide would empower the disintegration of wellbeing standards, and so on. Rather, a positive right to life powers people, governments and different associations to assess how their exercises might affect upon a privilege to life and present defensive measures.

RESULTS AND DISCUSSION

The U. S. Constitution contains no express right to privacy. The Bill of Rights, nonetheless, mirrors the worry of James Madison and different designers for ensuring particular parts of privacy, for example, the protection of convictions (first Amendment), protection of the home against requests that it be utilized to house fighters (third Amendment), protection of the individual and belonging as against nonsensical ventures (fourth Amendment), and the fifth Amendment's benefit against self-implication, which gives insurance to the security of individual data. Moreover, the Ninth Amendment expresses that the "count of specific rights" in the Bill of Rights "should not be translated to deny or trash different rights held by the general population." The significance of the Ninth Amendment is slippery, yet a few persons (counting Justice Goldberg in his *Griswold* simultaneousness) have deciphered the Ninth Amendment as defense for comprehensively perusing the Bill of Rights to secure privacy in ways not particularly gave in the initial eight corrections.

The topic of whether the Constitution ensures protection in ways not explicitly gave in the Bill of Rights is disputable. Numerous originalists, including most broadly Judge Robert Bork in his disastrous Supreme Court affirmation hearings, have contended that no such

broad right of protection exists. The Supreme Court, in any case, starting as ahead of schedule as 1923 and proceeding through its late choices, has comprehensively perused the "freedom" surety of the Fourteenth Amendment to ensure a genuinely expansive right of security that has come to incorporate choices about kid raising, multiplication, marriage, and end of therapeutic treatment. Surveys indicate most Americans backing this more extensive perusing of the Constitution.

The Supreme Court, in two decisions in the 1920s, read the Fourteenth Amendment's liberty clause to prohibit states from interfering with the private decisions of educators and parents to shape the education of children. In *Meyer v Nebraska* (1923), the Supreme Court struck down a state law that prohibited the teaching of German and other foreign languages to children until the ninth grade. The state argued that foreign languages could lead to inculcating in students "ideas and sentiments foreign to the best interests of this country." The Court, however, in a 7 to 2 decision written by Justice McReynolds concluded that the state failed to show a compelling need to infringe upon the rights of parents and teachers to decide what course of education is best for young students. Justice McReynolds states: "*While this court has not attempted to define with exactness the liberty thus guaranteed, the term has received much consideration and some of the included things have been definitely stated. Without doubt, it denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men*" (Gutwirth, 2002).

The version with amendments of Ukraine's Law on Personal Data Protection (Act) became effective on 1 January 2014, and is proposed to align Ukrainian legislation on individual information privacy more in line with EU law. The primary extent of the Act is the lawful regulation of assurance and preparing of individual information and security regarding the handling of individual information. Individual Data is characterized as an object of insurance under Article 5 of the Act and means data or an arrangement of data around a characteristic individual, which recognizes or prompts their distinguishing proof (Article 2). The preparing of individual information incorporates gathering, enrolling, amassing, putting away, adjusting, changing, use and dispersal (appropriation, deal and exchange), anonymization and decimation of individual information, including devastation of the same by method for computerized frameworks. Article 8 of the Act gives information subjects the right to confine the preparing of individual information when allowing assent and the right to pull back the assent whenever. As far as authorizations, the Act sets out managerial and criminal obligation for rebelliousness with and/or infringement of the Law (Andrievska, 2012).

It should be stated that Roger Clarke's human-focused way to deal with characterizing classes of privacy assists in laying out what particular components of security are essential and must be ensured. Clarke's four classes of privacy, illustrated in 1997, incorporate protection of the individual, privacy of individual information, privacy of individual conduct and privacy of individual correspondence. Thus, there are seven privacy types:

The first type is privacy of the person which incorporates the right to keep body capacities and body qualities (for example, biometrics and genetic codes) private. Emilio Mordini claims, "the human body has a solid typical measurement as the aftereffect of the reconciliation of the physical body and the psyche also, is unavoidably contributed with social values (Clarke, 1997). Privacy of the person is thought to be helpful for individual sentiments of flexibility and backings a solid, balanced popularity based society.

The second privacy type is privacy of action and behavior. This definition incorporates touchy issues, for example, sexual habits and preferences, religious practices and political activities. By the way, the definition of privacy of individual conduct concerns activities that happen out in the open space, and in addition private space, and Roger Clarke makes a qualification between easygoing perception of conduct by a couple of adjacent individuals in an open space with the orderly recording and capacity of data about those activities (Clarke, 1997).

The privacy of correspondence plans to maintain a strategic distance from the capture of interchanges, including mail capture attempt, the utilization of bugs, directional receivers, phone or remote correspondence capture attempt or recording and access to email messages. This right is perceived by numerous governments through prerequisites that wiretapping or other correspondence block attempt must be supervised by a legal or other power. This type of privacy benefits people and society because it empowers and energizes a free exchange of an extensive variety of perspectives and choices, and empowers development in the correspondences area. Clarke's classification according to privacy of individual information was expanded adding the catch of pictures as these are viewed as kind of individual information by the European Union as a major aspect of the 1995 Data Insurance Directive and also different sources.

This privacy of information and image incorporates worries about ensuring that people's information is not naturally accessible to other people and associations and that individuals can "exercise a generous level of control over that information and its use"(Clarke, 1997). Such control over individual information manufactures self-assurance and empowers people to feel enabled. Like privacy of thought and feelings, this privacy type has social quality in that it addresses the equalization of force between the state and the individual.

The next type of privacy highlights the protection of thoughts and feelings. Individuals have a right not to share their feelings and emotions or to have those feeling or thoughts uncovered. People have the right to think whatever they like. Such innovative freedom advantages society because it identifies with the parity of force between the state and the individual. This privacy type may be going under danger as an immediate aftereffect of new and rising technologies. Privacy of thought or emotions can be recognized from protection of the individual, similarly that the psyche can be recognized from the body. Likewise, we can (and do) recognize thought, emotions and conduct. Thought does not naturally decipher into conduct. Thus, one can carry on negligently (the same number of individuals regularly do) (Goold, 2009, p.32).

As indicated by origination of privacy of location and space, people have the right to move about out in the open or semi-open space without being distinguished, followed or observed. This origination of privacy incorporates a right to isolation and a right to privacy in spaces for example, the home, the auto or the workplace. Such an origination of privacy has social quality. At the point when subjects are allowed to move about open space without trepidation of ID, checking or following, they encounter a feeling of living in a majority rule government and encountering opportunity. Besides, they support difference and opportunity of gathering, both of which are vital to a sound majority rule government. This categorisation of privacy was additionally not as clearly under danger when R. Clarke was writing in 1997, however, this has changed with mechanical advances.

The last type of privacy is privacy of association; this type is concerned with individuals' rights to take up with whomever they wish, without control. This has been recognized as alluring (fundamental) for a democratic society as it encourages the right to freedom of speech, including political communication, freedom of worship and different types of association. Society profits by this privacy type in that a wide assortment of vested parties

will be fostered, which might guarantee that minimized voices, a few of whom will press for more economic or political change, are listened. This privacy type was not considered by R. Clarke, and various new advances laid out beneath could contrarily affect upon people's protection of association. One may address what the distinction is between privacy of location and space or protection of affiliation and security of conduct. Protection of area implies that a man is qualified for travel through physical space, to travel where she needs without being followed and observed. Privacy of conduct means the individual has a right to carry on as she needs (to rest in class, to wear entertaining garments) inasmuch as the conduct does not hurt another person. Privacy of conduct does not inexorably have anything to do with a man going through space, heading to work, going shopping or whatever. One can carry on as one needs in private, independently from others. Protection of association contrasts from privacy of conduct since it is not just about gatherings or associations (e.g., political gatherings, exchange unions, religious gatherings, and so on.) to which we have a place, protection of affiliation likewise interfaces with groupings or profiles over which we have no control – for instance, DNA testing can uncovering that we are individuals from a specific ethnic gathering or a specific gang. Privacy of association straightforwardly identifies with other central rights, for example, flexibility of religion, opportunity of get together, and so forth, from which privacy of behavior and action (as we characterize it) are a stage evacuated (Clarke, 1997).

CONCLUSION

In conclusion, the above information provides three main theoretical arguments. To begin with, privacy is a liquid and dynamic concept that has created close by innovative and social changes. Second, there are distinguished seven privacy types that present leaders need to consider in giving proactive insurance to people even with new and developing innovations. These incorporate privacy of the individual, privacy of information and image, privacy of conduct and activity, privacy of correspondence, privacy of feelings and thoughts, privacy of space and location, and privacy of association. Each of the distinctive innovations examined here effect upon various privacy types and these types should be considered while planning privacy assurances. Third, one of the qualities of privacy is its many-sided quality, ease and heterogeneity. Decision-makers, and most particularly policy-makers, have to discover advantage in keeping up a liquid and changeable comprehension of privacy so as to guarantee that protection is ensured even with future mechanical advancements.

REFERENCES

- Andrievska, Y. D. (2012). Privatnist yak skladova sotsialnoï realnosti: sutnist, funktsii ta geneza (Privacy as a part of social reality: essence, functions and genesis). *Sotsialni vimiri suspilstva*. 15. Pp. 143-155.
- Clarke, R. (1997). Introduction to Dataveillance and Information Privacy, and Definitions of Terms. Retrieved from <http://www.rogerclarke.com/DV/Intro.html>
- CONSTITUTION OF UKRAINE (1996). Adopted at the Fifth Session of the Verkhovna Rada of Ukraine on June 28. Article 141.
- Criminal Procedure Code of Ukraine (2003). scientific practice. comment / [V. I. Boyarov and others]; for general ed. VT Malyarenko, VG Goncharenko; Verkhov. Court of Ukraine. Article 938.
- Goold, B. (2009). Surveillance and the Political Value of Privacy. *Amsterdam Law Forum*. Pp. 20-37.
- Gutwirth, S. (2002). Privacy and the information age. Lanham, MD: Rowman & Littlefield. Pp. 20-237.

- European Commission. Consultation (2009). The impact of the use of body scanners in the field of aviation security on human rights, privacy, personal dignity, health and data protection. Brussels, 19 February. Retrieved from http://ec.europa.eu/transport/air/consultations/2009_02_19_body_scanners_en.ht
- Fuchs, Ch. (2011). Towards An Alternative concept of privacy. – Journal of Information, Communication and Ethics in Society. Pp. 220-237.
- Kaspar, D. V.S. (2005). The Evolution (or Devolution) of Privacy. – Sociological Forum. Pp. 69-92.
- Nissenbaum, H. (2010). Privacy in Context: Technology, Policy and the Integrity of Social Life. Stanford CA: Stanford University Press. Pp.9-92.
- Privacy International. (2009). “PI statement on proposed deployments of body scanners in airports.” Retrieved from <https://www.privacyinternational.org/article/pi-statementproposed-deployments-body-scanners-airports>
- Solove, D.J. (2008). Understanding Privacy. Cambridge MA: Harvard University Press. Pp. 6-62.