

Privacy: A Theoretical Perspective

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The Usual Conflict

- **Autonomy**

- ◆ Individuals being able to make choices
- ◆ Impaired by reduction in options (pre or post hoc); manipulation of options
- ◆ Central value of liberal democracies.

- **Solidarity**

- ◆ The demands of living in community
- ◆ Arise in all sorts of societies
- ◆ Range from very strong (conscriptio) to very weak (etiquette)
- ◆ Often in tension with autonomy

Privacy and the two values

- Protecting privacy encourages autonomy
 - ◆ Allows for more choices
 - ◆ Prevents manipulation of choices
- Solidarity limits privacy
 - ◆ Requires us to take others into account
 - ◆ Reciprocity of interests

Resolving the Conflict

- The Case of Hacking
 - ◆ Sometimes good; Sometimes Bad
 - ◆ Lisbeth Salander; Newscorp
 - ◆ Often ambiguous - Wikileaks
- “Public Interest”
 - ◆ Objective v. Subjective; Real v. Apparent
 - ◆ Value of Autonomy v. Value of Solidarity
 - ◆ “When there is a genuine (real/objective) public interest, and the value of knowing outweighs the value of not knowing, the right to privacy gives way”

Renewing the Conflict

- When can the state (justifiably) abrogate personal privacy?
 - ◆ Is there a (normative) difference between the government and the girl with the dragon tattoo?
 - ◆ Power - what can they do
 - ◆ Authority - what is their influence
 - ◆ Scope of Activities - what do they control

Privacy and the State

- Modifiers - with power (and authority) comes responsibility
- Government (unlike private individuals) must be beyond reproach.
- Modified: “When there is a **clear** (real and objective+**legitimate and defined**) public interest, and the value of knowing **clearly** outweighs the value of not knowing, the right to privacy gives way.”

Unanswered Questions

- What counts as a defined interest?
 - ◆ No fishing; no open ended
- What makes an interest legitimate?
 - ◆ “honour of the crown”
- What’s the value of “clearly outweighs”
 - ◆ Err on the side of privacy
- How should this apply?
 - ◆ Privacy and the Rule of Law

Your Unanswered Questions?

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