

In the privacy of our streets

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Introduction

If one lives in a city and wants to be by oneself or have a private conversation with someone else, there are two ways to set about it: either one finds a place of solitude, such as one's bedroom, or one finds a place crowded enough, public enough, that attention to each person dilutes so much so as to resemble a deserted refuge. Often, one can get more privacy in public places than in the most private of spaces. The home is not always the ideal place to find privacy. Neighbours snoop, children ask questions, and family members judge. When the home suffocates privacy, the only escape is to go out, to the coffee shop, the public square. For centuries, city streets have been the true refuges of the solitaries, the overwhelmed, and the underprivileged.

Yet time and again we hear people arguing that we do not have any claim to privacy while on the streets because they are part of the so-called public sphere. The main objective of this chapter is to argue that privacy belongs as much in the streets as it does in the home.

In the first section, I argue that the distinction between the private and the public sphere does not map onto what *should* be guarded by privacy. In other words, we cannot figure out what ought to be protected by privacy by referring to the private/public distinction. In the second section, I argue that privacy can only be safeguarded by protecting both our personal information and our *autotopos*—a metaphorical sensorial personal space or privacy bubble—and offer a few reflection on the value of privacy.¹ The third section is about the streets of a city as a vital commons, the importance of privacy to ensure their full enjoyment by all citizens, and the threats that are eroding privacy in public spaces. The fourth section concludes the chapter with a final defence for privacy in the streets.

The street and the public sphere

Because of the close etymology between the noun *privacy* and the adjective *private*, it is understandable to assume that privacy will always be on the 'private' side in the dichotomy between the private and the public. Whether this is true depends on how we divide and conceptualize the distinction. When it comes to streets and public squares, we seem to think these belong to the public sphere on account of two common ways of dividing the public from the private: on the basis of physical spaces and on the basis of funding. As I shall argue, on these ways of separating the public from the private, it is untrue that what ought to enjoy privacy always belongs to the private sphere.

For the time being I will not offer a philosophically rigorous definition of privacy. As a rough and ready working understanding of privacy, it can be said that the private, in

¹ Some parts of Sections I-II have been taken from my dissertation.

the sense of privacy, refers to that which is typically kept hidden by an individual from most other people in a certain society. I will mostly rely on paradigmatic privacy cases to argue that, whatever definition of privacy we favour, and as long as we want it to roughly accord with common usage, we cannot rely on the private/public distinction as it is commonly understood in order to justify a claim about what ought to be kept private.²

The private as a physical space

One commonsensical way to divide the private and the public is to suppose that the private sphere is a spatial zone intimately related to individuals and families that is off-limits, or of no concern, to the government or to other citizens. That it is of no concern to others is meant normatively, not descriptively. A neighbour might be very interested in what you look like without your clothes on behind the shut curtains of your bedroom, but he should not be (or, at the very least, he should not have access to your bedroom). The paradigmatic locus of the private in this sense is the home.

By contrast, the public sphere is a shared zone that is the legitimate concern of both the government and the people, the citizenry in general. The public sphere is an area that is subject to the authority of the government. Paradigmatic public places are streets, public squares, parks, and government buildings.

One might think, then, that under this division, people can expect privacy in the guarded comfort of their houses (as long as they do not engage in criminal activities). In the streets, however, privacy is not to be expected or respected. Thus, there are those who think that even if photographers do not have the right to take shots of people who are in their homes, as soon as people step out of their houses, it is fair game to capture them with a lens. Photographer Nick Turpin, for example, believes that ‘what happens in a public place should be a matter of public record’ (Laurent 2013). Turpin acknowledges taking photographs may have bad consequences. ‘I could be photographing a couple kissing while they shouldn’t be kissing. But if they are doing it in a public space, it’s a risk that they’re running...’ he said.

Nick Turpin’s example seems to provide strong support for his position because kissing on the street appears to be a particularly voluntary act, but not all behaviours seem so deliberate. Consider the case of an individual getting hit by a car on the street. When the paramedics arrive, they cut through his clothes in order to give him medical treatment. In this case it is much less clear that witnesses are entitled to take photographs of him naked and injured—much less publish them. The fact that he did not intend to be unclothed in public and the sensitive nature of the situation are reasons for people to act with discretion. Cases such as these are enough to show that Turpin is wrong, that people can have a claim that others respect their privacy when being in a public space—at least in certain circumstances.

Even in cases in which it seems that people have deliberately chosen to carry out a sensitive act such as kissing in public, it is worth noting that often our ‘choices’ are much more constrained than they seem. A couple may not have the financial means

² Helen Nissenbaum has also argued that the private/public dichotomy “is not useful as the foundation of a normative conception of privacy” (2010, 116).

to live in places where they can enjoy privacy or to pay for a hotel room. A political dissenter may not be able to meet with a fellow activist in her home because she suspects her house is under surveillance. Sometimes, the only breaths of privacy we can get are precisely in public spaces, away from people who can recognise us.

In this vein, Patricia Meyer Spacks notes how women often find privacy only outside of the home: “the housewife wants privacy specifically to get away from her family for a time” (2003, 1). The home is thought to provide a temporary relief from the demands of the larger society. At home, one can stay in one’s nightgown, put one’s feet on the table, and relax. Sometimes, however, domestic chores and family obligations can get in the way of one’s individual privacy. Having to engage with family can be an obstacle to having the chance to spend time by oneself writing in one’s diary, for example, speak privately with a friend, away from the eyes and ears of one’s spouse and children. With the passage of time, intimacy can become a burden, and caring can become oppressive (Moore 1984, 277, 42). If the house is too small, noises from others’ activities can be annoying. An escape from others is important for wellbeing. Men, women, children, and teenagers all get privacy from their families by leaving their house for some hours every day and entering the public sphere. School, work, and solitary walks (even if they take place in crowded streets) can all serve as potential privacy resources.

These cases show that sometimes privacy sides with the public in the private/public divide. Above and beyond these counterexamples, there is an equally important limit to be noted with respect to the public and the private as normative spatial zones. One problem with separating the private and the public on the basis of that which is the legitimate concern of individuals and families or the government and the citizenry is that it is a normatively laden demarcation. Such a characterisation could not explain why something should be protected by privacy; it would be question-begging. In other words, it is not enough to say “ x should be protected by privacy because x is part of the private domain.” One would have to then justify why x is off-limits or not a legitimate concern of the government or the public.

The private as that which is not publicly funded

Another common way of drawing a line between the private and the public is by appealing to the sources of funding. If an institution or a space is funded with money earned by businesses or individuals acting in a non-governmental capacity, it is usually thought to belong to the private sector. According to this way of dividing the pie, individual citizens fall into the private domain on account of their wages, estates, and shares being personal assets. If an institution or a space is funded with money coming from taxpayers, it is usually listed as belonging to the public sector. On this view, streets would be considered public because they are built with government funds.

One may think that privacy has nothing to do with what is publicly or privately funded, but it is plausible to think that paying for something (even if only partially) earns you certain kinds of entitlements. Thus, one might think that just as employers are entitled to some degree of knowledge about their employees (at least while the latter are on duty), so citizens are entitled to keep an eye on their public officials because they are paying for their salaries by way of their taxes. In the same vein, it is plausible to think that people are entitled to use the streets as they wish—e.g. taking

photographs of others or engaging in other privacy invading practices—because the streets are theirs, since they pay for them through their taxes.³

The first thing to point out is that financially separating the private and the public is problematic. When it comes to spaces, there are some public squares that are privately owned (e.g. Zuccotti Park, in New York City, where the Occupy Wall Street camp was placed), and some spaces that are publicly funded but used privately (e.g. public housing).

Even if we could sharply distinguish between the private from the public on account of funding, marking the divide by focusing on the origin of money will not help us in deciding what ought to be kept private. It is clear that whether spaces are publicly or privately funded is no good guide for whether people should enjoy privacy when using them. Patients are entitled to high degrees of privacy regardless of whether they are treated in a public or a private hospital, for example. Likewise, people should be able to enjoy privacy in their bedrooms even if they are staying for free at a house owned by the government.

The implication of these counterexamples is that what was true of the spatial delimitation between the private and the public is also true of a financial delimitation: privacy cannot be descriptively specified or normatively decided by reference to what is private in a financial sense. The implication for privacy in the streets is that the fact that streets belong to the public sphere on account of them being built with government funds cannot justify not being able to enjoy privacy while making use of them.

If appealing to the public and private distinction is unhelpful, how can we know what privacy is and what degree of privacy should we expect while on the street? In what follows I offer an account of privacy that helps determine when and where privacy ought to be respected.

Privacy and its value

Let us take a situation in which Tom peeps through Dana's bedroom window as a paradigmatic example of a loss of privacy. Precisely because privacy in public spaces is a contested issue, it is better to take as a paradigm case one for which most people would have no objections in seeing it as a privacy invasion in order to come up with a definition of privacy which can then be applied to public spaces. The peeping Tom paradigm encapsulates many lessons about privacy.

One of those lessons is that privacy is not only about information. Dana might worry that Tom may gather sensitive information from watching her bedroom (e.g. who she sleeps with). But suppose Dana is simply reading the newspaper in her bedroom and

³ Note that this kind of argument could be reversed as a point against government surveillance. Since it is the people who pay and own their streets, they should be able to enjoy the streets as they wish—and they might wish to make use of them without the discomfort of being watched by surveillance cameras. This argument, however, is just as unsuccessful for, as we will continue to see, the source of funding cannot justify whether something ought to be protected by privacy.

she is not worried about the (trivial) information Tom can glean by spying on her through the window. Dana might still be upset about Tom peeping through her window, even when she is not concerned about the information Tom is learning.

The unease experienced when someone looks at you when you do not want to be looked at that does not seem to be captured by describing it in terms of the information others may acquire about you. Indeed, if Dana were to realise that Tom is looking through her window (and supposing there is nothing she can do to make him go away), she might be so disturbed that she might find she can no longer concentrate on her reading. What matters, then, is not only information, but also sensorial access. We care about others being able to see us, hear us, touch us, smell us.

Another valuable lesson is that culture and social norms matter. In our societies, the bedroom is a culturally designated area of privacy—an area where it is generally recognised that individuals have a particularly strong claim to privacy.

The home and the bedroom are paradigm cases of private spaces, but I contend that social norms are such that we implicitly do and should acknowledge a kind of bubble of personal space that surrounds us. The bubble expands or shrinks depending on the social conventions accorded to different places and situations. I call this bubble the *autotopos*.⁴ Autotopos, then, refers to a metaphorical sensorial personal space, a sensorial self-space. It is the kind of sensorial space that people in a society commonly would not want anyone, other than him/herself (and perhaps a very limited number of other people chosen by him/her), to access.

There are two ways our autotopos can be accessed. First, when someone sensorially enters a culturally established personal zone of ours. That is, when someone (through direct or indirect perception such as cameras and microphones) sees, hears, smells, or touches us in a zone where there are cultural expectations to be free from the eyes, ears, touch, and presence of others (e.g. in the toilet). Second, our autotopos is accessed when we are witnessed engaging in some activity or being the subject of some event that typically evokes the desire to have no witnesses or very few chosen witnesses (e.g. being naked). Such an activity or event may happen in the public sphere, as in the case in which paramedics strip a person who has suffered an accident in order to offer them medical attention while on the street. The fact that someone is in a public space should not give others the impression that they can invade her privacy if she is in a sensitive situation.

The autotopos is metaphorical because it does not precisely equate with physical or territorial space, even if the two might overlap. It is a *sensorial* bubble. Placing a camera outside of your bedroom window may not invade a physical space, but it does invade a sensorial space. Placing a foot on a land that you have never visited and yet own halfway across the world may be an invasion of private property, but not of your privacy. For privacy, what matters is that one can be seen, heard, smelled, and touched by others.

It can be said, then, that Dana possesses privacy with respect to Tom if both her autotopos and her personal information remain unaccessed by Tom.

⁴ My thanks to Roger Crisp for suggesting this term.

By personal information I mean the kind of information that is common for people in a certain society not to want anyone, other than him/herself (and perhaps a very limited number of other people chosen by him/her), to know about. Personal information also includes information that someone is particularly sensitive about and has taken measures to conceal from others.

According to this account, Tom accesses Dana's personal information the moment Tom gains knowledge of it. In other words, it is not enough for the information to be accessible to Tom. If Tom finds Dana's diary but does not read it—as long as the diary remains unaccessed—Dana has lost no privacy.⁵

One might wonder what makes the two species—informational and sensorial access—part of the genus of privacy. The unity of the category of privacy is founded on the notion of being personally unaccessed and the kinds of interests we have in not being accessed by others. Privacy protects us from a) certain kinds of harms that may come about as a result of other people having access to our personal life, b) the demands of sociality, c) being judged and possibly ridiculed by others (and thus from self-conscious negative emotions such as shame and embarrassment), and d) the discomfort of being watched, heard, and so on. Privacy is valuable because we value the interests it protects.

Through such protection, privacy enables individuals to present themselves in different ways to different people (Marmor 2015). In his book, *The Presentation of the Self in Everyday Life* (1959), sociologist Erving Goffman described how this control was crucial for successfully managing both professional and personal relationships. Similarly, James Rachels (1975) has pointed out that being able to control who has access to oneself and information about one is intimately related to our ability to maintain different kinds of relationships.

It could be objected that we should not be given the chance to act differently in the presence of different people because that amounts to being two-faced, dishonest, or inauthentic. On this view, a lack of privacy would implement absolute transparency and that would be good, because it would force people to show their true colours to everyone alike, or so the thought goes. As Rachels has argued, however, different relationships are partly defined by different patterns of behaviour. One's best friend would not be one's best friend if one could not cry, swear, and express one's fears in her presence. If one were to display the same kind of behaviour with, say, one's students, one would be acting inappropriately. It is not that one is being dishonest when one acts with one's student differently than when one is the company of friends. Rather, relationships function as a kind of division of labour, and loading one kind of relationship with the burdens of another type of relationship creates confusion and dissatisfaction.

⁵ The adjective “unaccessed” is not found in any dictionary, but there is no suitable existing term to convey in one word the property of not having been accessed. “Inaccessible” denotes the property of not being able to be accessed, which is different from being accessible yet not actually accessed. Analogous differentiations exist in English, however, that use the same prefixes (e.g. indisputable/undisputed, inalterable/unaltered, etc.).

Furthermore, as Thomas Nagel (1998) has pointed out, these patterns of behaviour are not dishonest because they are not meant to deceive; they are social conventions that are typically shared and well known by all. Being able to conceal certain aspects of ourselves in order to present ourselves in appropriate ways depending on the public we are facing “protects one from the sense of exposure without having to be in any way dishonest or deceptive, just as clothing does not conceal the fact that one is naked underneath” (Nagel 1998).

The more privacy we can have in the streets, the more we will be spared from unwanted gossip, and the more possibilities we will enjoy of presenting ourselves in different ways. Privacy in the streets is important for people who cannot be themselves elsewhere. It is valuable because it allows people to explore things, places, and people that they would otherwise would not explore because of outside influences, for fear of what others might think of them, or for fear of repercussions.

In the streets, privacy keeps us safe from various harms. The more personal information others know about us, the more likely it is that it will be used against us in unfair ways. Criminals can use information about us, such as where we live, to commit identity theft, for instance, and businesses can use that information to create personalised pricing, in which some people pay more than others depending on where they live.

Enjoying privacy in the streets also enables us to have time and space for our thoughts. Walking in the midst of a crowded street in which no one pays attention to us and where we do not have to spend energy attending to others can be a respite from the burdens of social interaction (Gavison 1980).

In the political realm, privacy contributes to the protection of liberal, democratic, and pluralistic societies (Gavison 1980). Privacy fosters and encourages individuals’ autonomy by shielding them from external interference. Political liberty requires that people have the right to keep private their votes, associations, and thoughts, if they so wish. When democracies corrode and disagreeing with power becomes dangerous, privacy protects political dissenters such as activists and whistleblowers. When advocating against injustice may endanger one’s life or one’s loved ones, having the possibility of anonymous protest and resistance becomes crucial to defend democratic ideals.

With the right social norms and laws in place, streets can be rich privacy resources where individuals can take refuge to explore the world around them, to be alone with their thoughts or in the company they choose, to be anonymous, to be themselves, to be safe surrounded by strangers, to protest for just causes. If we let privacy die in public places, on the other hand, the streets can become inhospitable places where passers-by, through venturing out of their homes, risk stress, crime, loss of their reputation, and more.

Rural public places are outside the scope of this chapter. I focus on city streets because already, most of the world’s population is urban, and this trend is on the increase, with some experts estimating that by 2210, nearly 87% of people will be living in cities (Fuller and Romer 2014). Furthermore, protecting privacy is much more of an issue in

cities, and increasingly so. In rural areas, privacy challenges are much the same as they have been for hundreds of years, with some exceptions provided by technologies such as smartphone cameras and drones (which also affect cities). The scope for action in modifying privacy risks in rural areas is more limited, constrained by defining features of geography and density of population. When it comes to cities, in contrast, it is widely up to society how to fashion streets and technology to accord with our privacy desires. The city is utterly suffused with technological artefacts that put privacy at risk: from CCTVs to smartphone cameras, drones, electronic cards, smart meters, and more.

Numerous cities around the world are becoming “smart,” one step at a time. Santander, Amsterdam, Barcelona, and Dublin have all launched projects to further digitise urban experience. The most radical and ambitious project is currently being undertaken by Google’s Sidewalk Labs in Toronto. Their objective is to transform 800 acres of waterfront property into the most technological urban area the world has thus far seen (Badger 2017). With smarter cities, innumerable privacy challenges are coming our way. The better we understand the value of privacy in our streets, the better prepared we will be to face those challenges.

Privacy in the streets

Imagine being barred from stepping onto the streets. Consider a city life constrained to spending it indoors, and in privately owned open spaces such as gardens. Other things being equal, it seems that this would be an impoverished life. It is better to be able to go out into the street than not to have that possibility. In other words, we gain in cultural richness, valuable opportunities, and pleasurable experiences by being able to enjoy the streets of our cities. Streets provide us with the possibility of breathing fresh air, meeting both friends and strangers who may become friends, enjoying outdoor cultural events such as street music and theatre, participating in the cultural milieu of our city by appreciating trends related to fashion, architecture, etc. They enable easy access to shops and they allow pedestrians to discover and enjoy new places and people.

Furthermore, except for people who are wealthy enough to pay others to do some tasks, going out into the street is usually not optional. It is not only that streets are full of wondrous possibilities; using them is necessary for the livelihoods of most people. One can hardly avoid streets if one needs to go to work, get groceries, or enjoy some much needed human contact.

Because of their ubiquity and their ability to connect parts of the city, streets are one of the most fundamental commons experienced in an urban context. Streets are the veins of a city, and citizens are the oxygen that runs through them, making the metropolis live and breathe. However, there are certain preconditions necessary for citizens to be able to fully enjoy their streets. Streets must be reasonably safe. If people are afraid for their physical integrity when walking down avenues and roads, they will likely restrict their movements, the places they visit, and the times they go out at, thus not being able to fully enjoy the commons. Likewise, if streets are not clean enough, or if they are not accessible enough (for the handicapped, the elderly, for parents with pushchairs), people are more likely to avoid them. In a similar vein, if people cannot

enjoy some degree of privacy on the streets, if they are constantly exposed to invasions, they are likely to go out less than they otherwise would, or to alter their habits in protective ways that are detrimental to their enjoyment of the streets. For people to feel safe, both their personal information and their autotopos have to enjoy a reasonable degree of respect.

The documentary *\$ellebrity* (Mazur 2012) illustrates how traumatic a lack of privacy can be in public spaces. It tells the story of celebrities reduced to tears and anxiety because they cannot take a step outside their homes without having paparazzi harass them with questions and pictures. The lack of privacy can be so unnerving that it can drive people to take unnecessary risks: although it is a matter of controversy, for years it has been suggested that Princess Diana's death in a car crash may have been caused by her chauffeur trying to escape paparazzi. The issue of what degree of privacy should celebrities enjoy in public spaces is complex and beyond the scope of this chapter. Most people will presumably agree, however, that whether it is the right price to pay or not for fame, the inability to be anonymous in the street is a serious loss, and ordinary people, however we may want to define them, should not have to suffer such loss.

Of course there is a certain vulnerability inherent to stepping onto the sidewalk. It is unreasonable to expect complete privacy on the streets. Leaving the enclosed space of the home necessarily exposes us to a myriad of people, with all the risks that involves. By going out of our homes we run both physical risks, such as getting hurt by cars or other pedestrians, and privacy risks (e.g. others may notice us when we would prefer not to be noticed). Our autotopos is bound to be at risk by others looking at us, and so is our personal information, as at least some passers-by or neighbours are bound to notice where we live as we go out of our homes.

An important distinction should thus be made between inevitable kinds of exposure and unnecessary invasions of privacy. Inevitable exposure comes from the need to make the streets available to the enjoyment of all. Other things being equal, people cannot be banned from walking down any particular street without seriously impeding their enjoyment of public spaces, and likewise it cannot be forbidden to look at other people who are on the street. There is thus an unavoidable risk that one may bump into people one would wish to not to see or not to be seen by. As Goffman points out, public spaces render “persons uniquely accessible, available, and subject to one another. Public order, in its face-to-face aspects, has to do with the normative regulation of this accessibility” (1963, 22). In cases of unavoidable exposure, social norms can go a long way towards minimising negative consequences. We tend to practise decorum in cases in which we perceive we might be invading someone's privacy.

People ‘divulge information’ about themselves, often against their wishes, by their ‘mere presence in a situation’ (Goffman 1963, 103). Imagine seeing a work acquaintance walking down the street. He is holding someone's hand. As soon as he notices you, he blushes, lets go of his companion's hand, and faces a shop window, pretending not to have seen you, giving his back to you as you pass by. People wanting to control others' access to them typically avert their eyes to avoid eye contact (Goffman 1963, 93). The tactful approach to this situation—given that your acquaintance clearly does not want to interact with you—is not to force an encounter,

join him in pretending you did not see each other, walk by, and not talk about the incident with others.

As has been mentioned, context is partly what modulates the boundaries of people's autotopos. Helen Nissenbaum's framework of contextual integrity helps explain the importance of different situations for privacy. According to her, what is most important to people is not simply limiting access to personal information, but rather ensuring that information flows *appropriately*. Context is what determines that appropriateness (Nissenbaum 2010, 1-4). As Nissenbaum explains, '[c]ontexts are structured social settings characterized by canonical activities, roles, relationships, power structures, norms (or rules), and internal values (goals, ends, purposes)' (2010, 132). Social norms regulating behaviour on the streets are thus influenced by culture and by nuances in the situation (e.g. whether the person we encounter is accompanied, whether she may feel embarrassed about the way she is dressed or the store she is visiting, etc.).

It may not always be easy to know how much privacy someone wants if one happens upon her on the street. Social cues such as avoiding eye contact help in communicating privacy needs; they are clues as to whether someone needs space from us, whether their autotopos needs to be respected at a certain time and place. As Irwin Altman puts it, "[p]eople implement desired levels of privacy by behavioural mechanisms such as verbal and paraverbal behavior, nonverbal use of the body, environmental behaviors and cultural norms and customs" (1976, 17).

Social norms that minimise inevitable exposure include not watching intently at people, and not following them around. In other words, social decorum in public places demands of people that they interact in an "unfocused" way. For example, that they manage copresence on the streets by quickly glancing at others, rather than staring (Goffman 1963, 24). There is a kind of courtesy involved in giving a passer-by "enough visual notice" to acknowledge his presence "while at the next moment withdrawing one's attention from him so as to express that he does not constitute a target of special curiosity." Goffman calls it "civil inattention," a kind of "dimming of lights" when persons pass each other on the streets (1963, 84).

In short: in the streets we are accessible, but what matters the most is that we are not accessed in ways that make us uncomfortable. Because we are accessible, a healthy and full use of the streets depends on trusting that others will not access us inappropriately, even when they could.

Avoidable invasions of privacy violate the respect for others' personal information and autotopos. They are practices that are not necessary for all to enjoy the streets and that diminish the privacy of individuals. Avoidable invasions of privacy may come from other individuals, businesses, and governments.

Other passers-by can invade our privacy by taking photographs of us and publishing them. When photographs are taken surreptitiously, there is always a risk of the target's autotopos being invaded, as the photographer usually does not have enough information to know whether the target might be in a certain context where she does not wish to be photographed (e.g. perhaps she does not want people to know she was where she was). The invasion can be especially damaging if the photograph portrays

what is clearly a sensitive situation, such as the victim of an accident or some other kind of disaster, or a couple kissing. Photographs can be especially harmful because they can involve both a breach of people's autotopos (which can lead to people feeling embarrassed from their image being exposed, above and beyond issues of information) and they can also disclose very personal information (e.g. a romantic relationship). The popularisation of smartphones has made photographing in the streets a much more common practice. Social media sites like Facebook have made it easier to publish pictures to a wide audience without always knowing whether it might have bad consequences for someone. Wearable cameras such as Google Glass or MeCam represent further threats to privacy.

Businesses can invade our privacy by using facial recognition systems and by identifying people through their smartphones and following their every step when they enter a shop (Clifford and Hardy 2013). Shops are using the Wi-Fi signals from mobiles to fish for personal information about shoppers and to track their buying behaviours,⁶ and they use cameras and facial recognition to assess people's moods, among other things. Commercial invasions of privacy are mostly about personal information, even when they use people's autotopos (as in the case of facial recognition) to get to the former. This information is then used for marketing purposes, but it also gets sold to data brokers (Hoofnagle 2016). Data brokers then sell profiles to the highest bidder; they have been known to sell lists of rape victims, AIDS patients, and more (Hicken 2013).

Finally, governments can invade our privacy through the use of technology. The most obvious example are CCTV cameras. It can be argued that surveillance cameras should be considered as an inevitable kind of invasion because they ensure safety and are thus necessary for streets to be enjoyed by everyone. However, evidence regarding the effectiveness of cameras at deterring crime is contradictory, with a significant amount of it suggesting no effect whatsoever (Cameron et al. 2008). Other evidence suggests that they are only as effective as streetlights (Welsh and Farrington 2004), yet much more privacy-invading. In any case, even if we agree on their necessity, there are ways in which they can be abused: by keeping footage for longer than necessary, by tracking individuals without reasonable suspicion, by selling that footage, or by irresponsibly publishing images. In 1995, for example, a CCTV camera caught a man about to slash his wrists. The footage was then shown to more than 9 million viewers on a BBC show without concealing his face (Dyer 2003).

A less well-known technology through which governments invade citizens' privacy are IMSI-catchers—fake cell phone towers that trick mobile phones into connecting to them. Once connected, IMSI-catchers can collect identification and location data, as well as enable eavesdropping on phone conversations, text messages, and web browsing (Hicken 2013). There is evidence that this equipment is being used by the police across London to spy on people, for example, at peaceful protests and near the UK parliament (Bryant 2016).

Popular advice given online to protect one's privacy now includes leaving one's phone at home when going to a protest (Dunne 2017). Phones guard some of the most

⁶ To minimise others' ability to track one, it is advisable to turn off the Wi-Fi on one's smartphone when leaving one's home.

personal information people hold about themselves, and protestors are not keen on the police having information on them that could potentially be used against them. However, not having a phone during a protest is a significant difficulty. Having a phone is important for protestors to feel safe. Protests can get out of control, and friends and loved ones often get separated, sometimes simply as a result of the amount of people protesting, and sometimes as a result of police intervention or violent disruptions of various kinds. Having a phone allows people to be in touch, reorganise, and find each other. Having a phone also means that one is able to call for help in case of injury or arrest. Sometimes activists are forced to stay more time in police custody than necessary because they could not alert their loved ones or their lawyer that they had been arrested. Finally, having smartphones allows for the possibility of filming police wrongdoing. People having to leave smartphones at home, or worse, not going to protests for fear of invasive practices by the police, are not good signs of healthy democracies.

With all of these avoidable invasions of privacy, social norms such as decorum are not enough to guarantee privacy—appropriate laws must be passed. It may be argued that laws are not necessary because most of these privacy invasions do not threaten the use of the streets, as people do not seem to care about them, or not enough to stop them from stepping onto the sidewalk. There are at least three responses to this objection.

First, people may be unaware of many of the privacy invasions they are being victims to. By deceiving victims of privacy invasions, privacy offenders are failing to respect people's autonomy. Covert surveillance deceives victims about their world—it controls the victim's beliefs about whether she is being watched (Benn 1971). These false beliefs affect the victim's desires and her actions. She acts differently than she would if she knew she was being watched. Through deception, watchers thwart citizens' attempts to make rational choices for themselves. For people to be able to autonomously decide how to lead their lives, they must be reasonably well-informed about whether someone is watching them, among other things (Benn 1971).

Second, people may not have a choice but to go out onto the street in order to lead their lives. Their continued use of the streets may not be taken as consent or agreement. People may feel so impotent in the face of so many privacy threats that they may resign themselves to the status quo. It is impossible to protect oneself from all the privacy invasions that take place regularly on our streets, and resigning oneself to this fact is not the same as not minding or not having a strong preference for privacy. Furthermore, the discomfort of not enjoying privacy might still be influencing people's behaviour for the worse, even if it does not go so far as to make people not go out at all. It is hard to tell whether people might be expressing less affection in public, for example, because they feel more watched than in the past, or whether they might be avoiding certain places that they would not avoid were they to enjoy more privacy.

Third, even if people are informed of the privacy invasion they are subject to and they still do not mind them, there is still reason to think that there is a moral wrong happening, that the street as a commons is being damaged. It is possible that privacy damages are similar to ecological damages in that they are often noticed when it is too late. Individual and small acts of littering or polluting do not seem to make a difference. Yet acts of littering and polluting accumulate, and there comes a moment

when the damage is noticeable, great, and often irreversible. Similarly, every bit of personal data that we give away or that gets invaded seems irrelevant: it does not hurt and people may not notice it. But as we lose more and more privacy, as more information about us becomes unprotected, we become more and more vulnerable to harms, and the likelihood and number of privacy harms is bound to go up. We can already appreciate this trend. According to the Federal Trade Commission (2016), for example, identity theft complaints in the United States increased by 47% between 2014 and 2015.

There is a further question about what kinds of privacy invasions should generate legal liability.⁷ Minor privacy invasions such as stares should clearly not be legally regulated, unless we want to build a police state that would, ironically, only erode privacy further. The issue merits a chapter on its own and is beyond the scope of this one, but some observations are in order.

Although respecting other people's privacy includes respecting information they are sensitive about, it is not appropriate for the law to legislate according to individual sensitivities. If you know someone is sensitive about something seemingly irrelevant such as their height, the virtuous thing to do is not to try to find out how tall they are. However, the law should not punish such privacy invasions, as people can be sensitive about too many things, some of them unreasonably mundane, and it is hard to ascertain whether they have taken steps to conceal that information, and to what extent gaining access to that information has been a privacy invasion. Personal sensitivity should be taken into account, morally, but is much too subjective to be legally enforced. Ordinary people would suffer too many restrictions from this kind of legislation. If, however, someone retrieves information that a victim is sensitive about through a clear privacy invasion, such as breaking and entering into her bedroom, then that breach should be punished—not in virtue of the kind of information retrieved, but in virtue of the kind of invasion used to retrieve the information (breaking without consent into a legally established zone of privacy).

What can be legally enforced are well entrenched and generally recognised norms regarding privacy. The theft of personal information from mobile phones, for instance, should be forbidden—particularly when it comes to businesses. Businesses should not be able to profit from violating customers' personal information without their consent, and personal information should never be used against the interests of customers (e.g. by driving prices up depending on where a person lives, or what she does for a living).

Legal regulation should be heavier on the side of businesses than individuals, and it should always be in the service of citizens' wellbeing. Being able to enjoy the streets without fear of undue exposure is an important component of the wellbeing of populations. Through social norms and laws, access must be as limited as possible (without encroaching on others' claim to enjoy public spaces) to both personal information and people's autotopos while they enjoy the streets. As things stand, there is much room for improvement.

⁷ My thanks to an anonymous reviewer for pointing out this issue.

Conclusion

In this chapter I have argued that the public nature of streets does not justify a radical lack of privacy. Both political philosophy and morality are in the business of figuring out what a better world would look like. I have argued that a world in which we can enjoy more privacy in the streets would be a better one.

We may go on eroding privacy in the streets and may not notice all of its effects immediately. At the moment, only some people are bearing the brunt: the unlucky ones who suffer identity theft, the ones who live in dangerous countries and risk getting kidnapped, LGBT people living in intolerant societies, people engaging in forbidden love, and so on. The risk is that, when those effects reach most of us, when we are all made to suffer grave consequences from lack of privacy, privacy invading customs and practices may be so entrenched in our culture, economy, and laws, that it may be very difficult to go back to a more private world.

Once privacy in the streets is lost, only the very rich will be able to secure it. Only people who can afford to pay for other people to go out into the streets to take care of everyday chores for them, and for properties that can offer them privacy, will be able to fully enjoy the many benefits of privacy. *The Guardian* recently reported that, for the first time, this generation will be poorer than its parents (Barr and Malik 2016). In a historical moment in which housing prices seem to be soaring in much of the world, in which a significant proportion of young professionals are either forced to live with their parents or to share a flat with others, being able to enjoy privacy in the streets becomes all the more important. Better to decide what kind of streets we want now, while we are still in time to shape social norms and laws to be more respectful of privacy, than to wait until we feel the full force of a lack of privacy—the damages may be severe, and it may be too late to turn back.

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