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## NORMATIVE VS DESCRIPTIVE QUESTIONS

- Descriptive: Claims about how things are.
- Normative: Claims about how things should be.
  - Moral claims.

# DATA AND PRIVACY

## PRIVACY

Attack ad for Jon Ossoff, candidate for  
the US House of Representatives

[https://www.youtube.com/watch?v=T8u  
neR7mLUk](https://www.youtube.com/watch?v=T8uneR7mLUk)

## QUESTIONS

- What are different notions of privacy?
- Why is privacy valuable?
- Is there a right to privacy?
- What would a right to privacy mean for data storage and transfer?

## NORMATIVE VS DESCRIPTIVE

1. How can data systems be designed to achieve privacy goals?
2. Why should data privacy be promoted?

## PLAN FOR TODAY

1. Which notion of privacy is relevant for the storage and transfer of data?
2. Why is privacy morally valuable?
3. Is there a right to privacy?
4. How can a data storage system be designed to promote privacy? (30-40 minute activity)

## GOALS FOR TODAY

1. To introduce you to helpful distinctions.
  - Different types of moral rights.
  - Different notions of privacy.
2. To appreciate the ethical questions raised by the privacy implications of different ways of storing and transferring data.
3. To use features of data system design that you've learned in class to start thinking about how to design a data storage and transfer system to promote privacy.

PRIVACY

# PRIVACY

The distinction between the private and public sphere goes back to Aristotle.

- Public sphere = political life
- Private sphere = domestic and family life

# WHAT IS PRIVACY?

- *Constitutional privacy*
- *Informational privacy*
- *Electronic privacy*

## CONSTITUTIONAL PRIVACY

- *Constitutional privacy* = the ability to make “certain important and personal decisions about one’s family, life, and lifestyle”
- The concept originated in *Griswold v. Connecticut* (1965).
  - Also used to justify abortion rights in *Roe v. Wade*.
- Not relevant to data storage and transfer.

# INFORMATIONAL PRIVACY

- *Informational privacy* = the right to control “private” information about yourself
- Heuristic to identify private information: That which you wouldn't want to be posted on the front page of the Harvard website.
  - Context- and culturally-specific notion.
- Examples: What you think of your friend's new birdwatching hobby; your dating history; your fears and insecurities.

## ELECTRONIC PRIVACY

- *Electronic privacy* = informational privacy as it applies to our electronic activities: our web browsing, text messaging, emailing, etc

# THE MORAL VALUE OF PRIVACY

## TWO TYPES OF VALUE

- *Instrumental value*: Good because it leads to other good things.
  - *Example*: Money
- *Intrinsic value*: Good in and of itself.
  - *Example*: Friends

WHY IS PRIVACY VALUABLE?

## WHY IS PRIVACY VALUABLE?

- Getting along answer: Allows us to balance the values of getting along and having a free inner life.
- Human flourishing answer: Allows you to become a full human person (moral agent; friend; etc.).
- Good in itself: Don't need to be alert for possible listeners, observers, etc.
- Protects against unfair decision-making.

## GETTING ALONG

Privacy allows us to combine “civilized interpersonal relations with a relatively free inner life.” (Nagel 1998, 8)

- Balances two different moral values that are in tension:
  - Getting along in a shared social space, and
  - Having a free inner life that is wider than that social space.
- Intrinsic or instrumental value?

## HUMAN FLOURISHING IN SOCIAL RELATIONSHIPS

- Many cases in which we want privacy are not ones where a piece of information is harmful or embarrassing when revealed. (Rachels 1975)
- Close connection between “our ability to control who has access to and information about us, and our ability to create and maintain different sorts of social relationships with different people.” (Rachels 1975, 326)
  - Intrinsic or instrumental value?

## GOOD IN ITSELF

We have a special interest....“in being able to be free from certain kinds of intrusions” (Scanlon, 315)

- Interest in having a “zone” of privacy where I don’t have to be on the watch.

## PROTECTS AGAINST UNFAIR DECISION MAKING

“The average patient doesn't realize the importance of the confidentiality of medical records...Revealing a pattern of alcoholism or drug abuse can result in a man's losing his job or make it impossible for him to obtain insurance protection.”

Dr. Malcolm Todd, President of the A.M.A., quoted in the Miami Herald, 26 October 1973, p. i8-A.

## PROTECTS AGAINST UNFAIR DECISION MAKING #2

- A loan officer at a bank is deciding whether to give Lidal a loan to open a new brunch restaurant. Which of the following pieces of information can be a basis of her decision?
  - Lidal's collateral
  - Lidal's payment history
  - When Lidal lives
  - Lidal's race

## PROTECTS AGAINST UNFAIR DECISION MAKING #2

- Decisions on the basis of some types of information may be unfair (ex: discriminatory) or harmful.

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## DATA AS ANTIDOTE TO DISCRIMINATION?

- Objective metrics
- Controlled inputs
- Alternative to fuzzy, biased human reasoning

- Examples:

- Credit rating

income alone vs. income + spending + cost of living

Byrnes, "Artificial Intolerance,"  
*MIT Technology Review* 3/28/16

## BIAS IN TRAINING DATA

Problem: identifying (or generating) an *unbiased* dataset from which to draw generalizations.

Goal: make **accurate**  
generalizations

A MORAL RIGHT TO PRIVACY

## IS THERE A MORAL RIGHT TO PRIVACY?

"People in the same family who live in different cities need to be able to communicate privately without it being intercepted. Really, it is a human right. You can't mess with human rights like that without massive unexpected and very disastrous consequences." (Tim Berners-Lee)

## MORAL RIGHTS

- Roughly, you have a moral right to  $X$  if you're entitled to  $X$ , or someone has an obligation to provide you with  $X$ .

## WHEN IS SOMETHING A RIGHT?

- Heuristically, a right is an interest that is so important that we think it should be protected by an explicit and serious social rule.

## WHY DOES IT MATTER IF THERE IS A *RIGHT TO PRIVACY?*

Rights can't be overridden by other considerations (except in extreme cases), unlike values (i.e., they have “special normative force”).

- Right to life, liberty, and security of persons – we call it a right *precisely because* we don't think that it should not be outweighed by other considerations.
- By contrast, we have a general duty to help those in need, but it can be outweighed by other considerations – personal care; familial ties; etc.

## ISLAND CASE

**The island doctor case.** You and six other people have been stranded on a remote island. You happen to be an extremely skilled surgeon. Moreover, the island just happens to have a deserted but well-stocked surgical center on it. You learn that five of your six companions have diseases that could be cured with a suitable organ transplant. Moreover, each of them needs a different organ. If they do not get a transplant, they will suffer greatly before dying. If they do, they will live long, healthy lives. You could perform the relevant procedures easily if you only had access to a suitable donor. One day, the sixth, perfectly healthy inhabitant of the island walks into your clinic with a sprained ankle. It occurs to you that you could knock him out, remove his organs, and tell the others that you found the organs in storage (they don't know much about medicine and are very credulous), and haven't seen the missing sixth person and don't know what happened to him. You are extremely confident that you could pull off your plan, thereby curing the remaining five inhabitants by killing just one. Should you do it?

## RIGHT OR VALUE

Is there a right to privacy, or is it instead morally valuable?

## EXAMPLE: EU'S RIGHT TO BE FORGOTTEN

- Case brought to the Court of Justice of the European Union in 2010 by a Spanish citizen who complained that an auction notice of his repossessed home on a Google search result infringed his privacy rights.

## RULING

“Individuals have the right - under certain conditions - to ask search engines to remove links with personal information about them. This applies where the information is inaccurate, inadequate, irrelevant or excessive for the purposes of the data processing (para 93 of the ruling)” (European Commission Factsheet on the Right to be Forgotten)

DISCUSSION POINT #1: RIGHT OR  
VALUE

Is there a right to privacy, or is it instead  
morally valuable?

## DISCUSSION POINT #2

What are the implications of the right to be forgotten for how we store and transfer data?

- Think about storing data in multiple locations where it is costly to access, or selling it to third parties.

ACTIVITY

## ACTIVITY: CASE

*Pregnancy Health Data.* A new start-up, Babyscripts, has developed a mobile app aimed at early identification of potentially serious complications in pregnancy and an increased quality of care. Through the mobile app, doctors give their patients tasks to promote a healthy pregnancy. Patients also have the option to receive a kit with a home blood pressure monitor. The blood pressure monitor allows weekly blood pressure data to be transferred to the doctors, and stores all the data together. The start-up hopes to use or sell the data for future medical research.

However, Babyscripts has had security issues – the data have leaked and been sold to insurance companies, and customers are worried that insurance companies will use private health data in insurance decisions, for example.

## ACTIVITY

- Pretend you are part of a team of computer scientists hired by Babyscripts to redesign their data storage system. You need to come up with a recommendation about how to design a storage system for the data, and who should be able to access which data. Babyscripts, being an ethically concerned company, also wants you to advise them on where ethical issues arose in your thinking about task, and how you responded to the ethical issues.
- *Note:* One reason that this is a tricky case is that the functionality comes from processing all the data together, rather than a piece of data at a time (for the doctor; for medical research).

## KEY QUESTIONS

In thinking through this case study, you should think about questions such as:

- How secure is the data? (Is the patient uploading the data to the cloud?)
- Who gets the data? (Just the doctor? Insurance company?) What is the data used for?
- Why is privacy valuable for the customer? Is there a right in the background?