


DS 593: Privacy in Practice

How is Privacy Defined and Understood Today?

News?



 WEBSITE BLOCKING

Democrat teams up with movie industry to propose website-blocking law

Proposed US law slammed as "ensorious" and an "Internet kill switch."

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☆ Credit: Getty Images / Vukobratovic

<https://arstechnica.com/tech-policy/2025/01/movie-industry-loves-bill-that-would-force-isps-to-block-piracy-websites/?comments-page=1#comments>

Last time

- Classical Definitions of Privacy

Today

- ***Modern*** Definitions of Privacy

“All models are wrong, but some are useful.” - Attributed to George E. P. Box

What is different in the Information Age?

New Settings

- Same public data but way more accessible
- Data Aggregation as a norm
- Start, end and terms of interactions is less defined
- Easier for these systems to impact us than for us to impact these systems



Apparent Tensions

- Privacy Paradox
- Social Media Sharing
- Variance across settings and cultures



Dependence on Classical Notions

- Privacy as an individual right to secrecy and disclosure is well-entrenched and easy to work with
- Technical, Legal, and Regulatory focus is on this narrow focus and leaves everything else aside
- Relies on Dichotomies that were useful for other legal questions (Sensitive vs Non-Sensitive, Public vs Private, Government vs Private)
- An appreciation for broader notions of privacy, but labels them as preference
 - A preference or an individual right is easy to override for a broader good: Security, Property rights, Efficiency

Notice-And-Consent

- Default mechanism for handling privacy concerns
- List disclosures and have users consent to these disclosures
- Originated as a way to avoid regulation

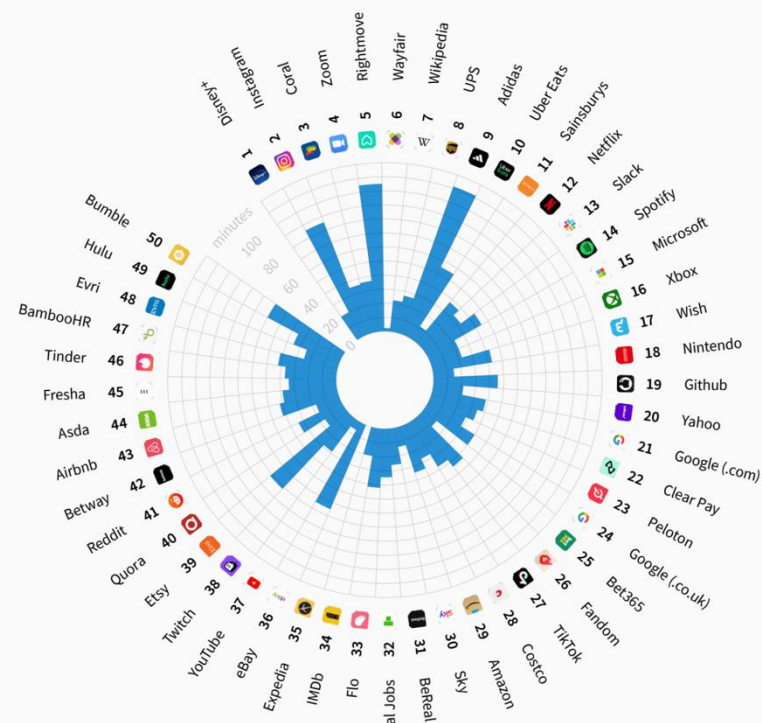


Flaws of the Notice-And-Consent Model

The top 50 most difficult to read privacy policies and the length of time it will take for you to read them

Based on a readability index score out of 100 and the total wordcounts

- Length of time needed to read (minutes)



Read the full report at vpnoverview.com/URL

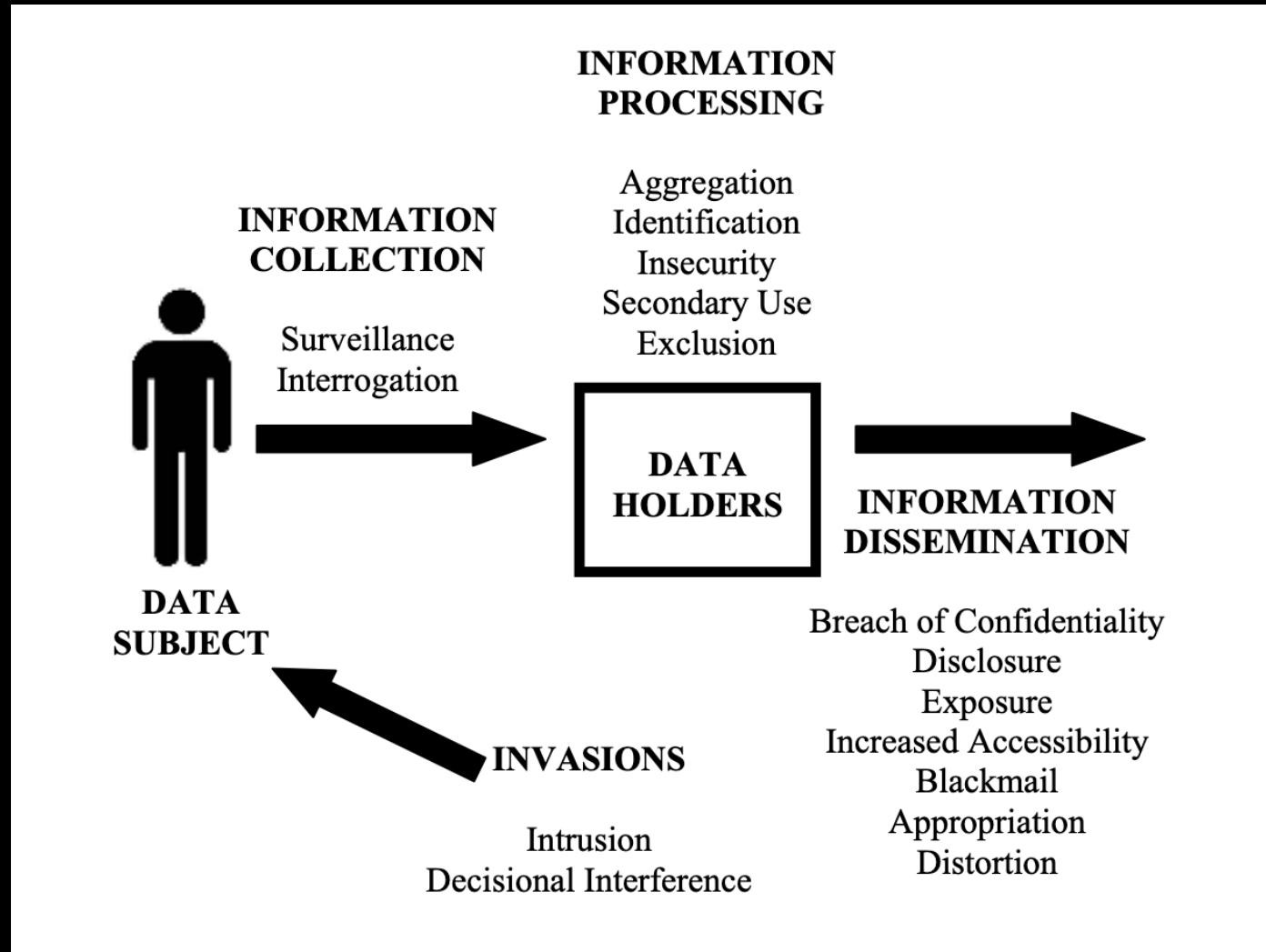
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Privacy as Design



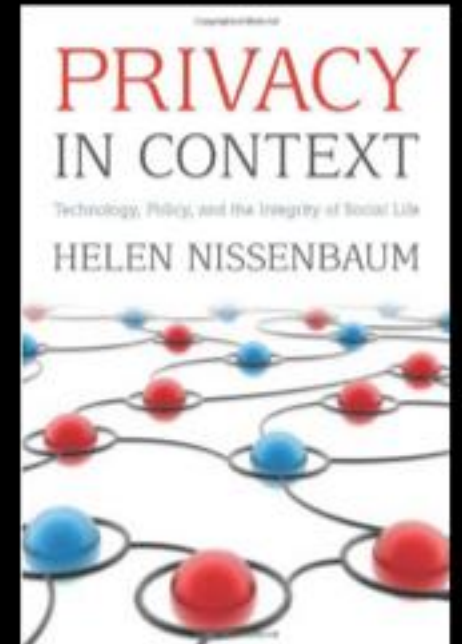
Defining Privacy from Practice to Theory

Solove's Taxonomy



Privacy as Contextual Integrity

- Notion introduced by Helen Nissenbaum (2010)
- Intends to account with the question of public surveillance
- Central tenet: there are no arenas of life for which "anything goes"
- Privacy as a Positive Definition: An *Appropriate Information Flow*



Contextual Integrity

- Norms of Appropriateness
- Norms of information Flow
- Privacy is when both are upheld and is violated if either is violated

Contextual Integrity

- Key Parameters:
 - Data Subject (About what/whom)
 - Sender
 - Reciever
 - Information Type (What is being sent)
 - Transmission Principle (What are the constraints)

Examples



What would be disallowed?

Caveat for Contextual Integrity

- Reliance on norms can entrench the status quo
- Argues for reassessing norms under the following considerations:
 - (1) prevention of information-based harm,
 - (2) informational inequality,
 - (3) autonomy,
 - (4) freedom,
 - (5) preservation of important human relationships,
 - (6) democracy and other social values.

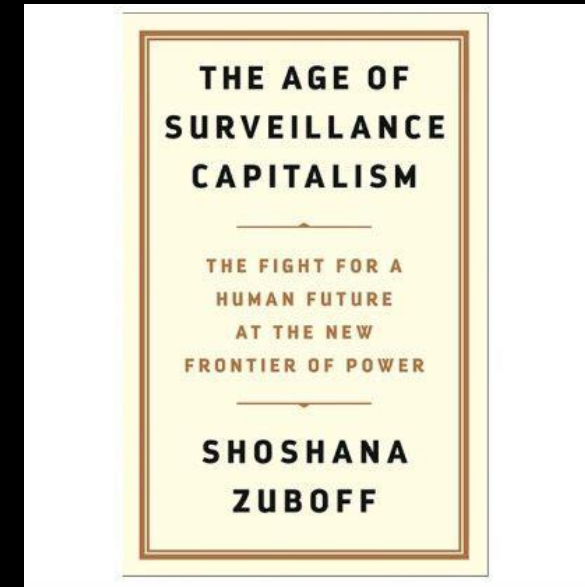
Privacy as a Collective Right

- A core aspect of a healthy democratic society
- Hard for anyone to have privacy without everyone having some minimal amount
- Defines it as a common good
- Puts it on equal footing with other social goods



Privacy as Power

- Véliz: “Privacy matters because lack of it gives others power over you”
- No Incentive for regulation
- Zuboff: “Who knows? Who Decides? And Who Decides who Decides?”



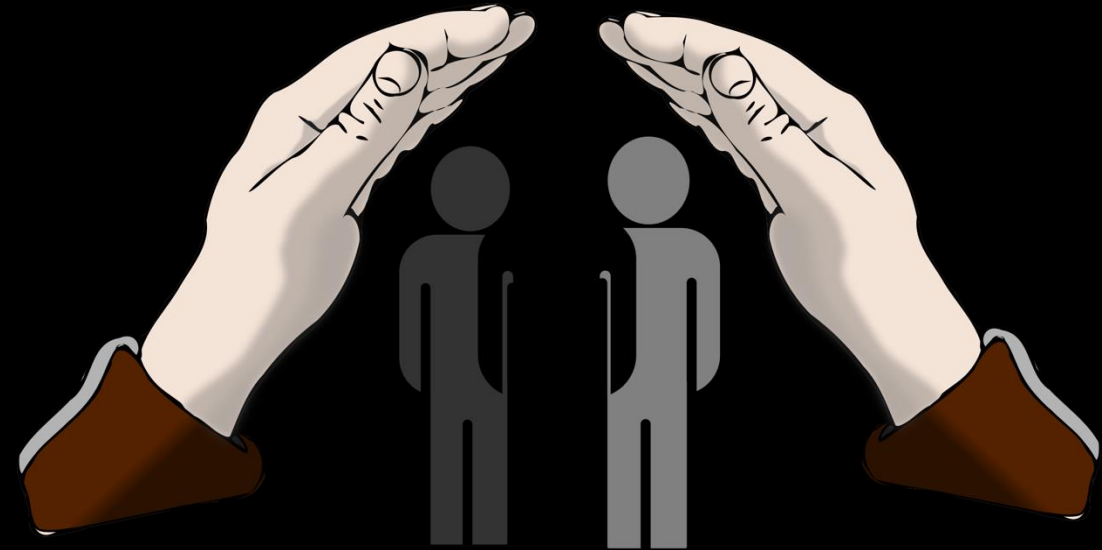
Privacy and Consent Revisited

- Idea that under a well-regulated system, users should be allowed to permit disclosure
- Highlights the free and accessible nature of the internet due to “paying with data”
- Argues for the protection of “Access Right”



Privacy as Safety

- Rather than Privacy being in tension with safety, argues that privacy is *instrumental to safety*
- Straightforward regulatory implications
- How Privacy enhances safety:
 - Physical Safety
 - Psychological Security
 - Economic/Discriminatory Safety
 - Safe exercising of rights



Privacy as an Essentially Contested Concept

- Privacy will always be debated and evolving base on the current technological and social reality
- Compares privacy to other concepts like art and democracy, where debating the meaning is part of the concept itself
- Argues to embrace the difference and focus on highlighting these different contexts as different dimensions of analysis
- Clusters these dimensions around the notions of:
 - Theory (Why should something be private?)
 - Protection (What is at stake?)
 - Harm (Who might be harmed?)
 - Provision (Who/what can provide privacy?)
 - Scope (What are the limits of privacy?)



How to codify privacy?

- Focus on just the egregious or systemic cases?
- When there are serious imbalances?
- When the violation stems from self-interest?

Next time

- Privacy as a Civil Right
- Legal Basis for Privacy