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ABSTRACT

THE CONCEPT OF PRIVACY is a widely accepted legal and moral notion but has uncertain legal and philosophical foundations. Prominent legal accounts, such as the nonintrusion theory and the freedom to act theory, are inadequate. The control of information theory and the undocumented personal knowledge theory are philosophically better accounts but are open to counterexamples. A restricted access theory of privacy is developed and defended.

INTRODUCTION

The right to privacy is widely acknowledged and well-supported in the United States. Many familiar legal and ethical arguments pivot on an appeal to the right to privacy. A charge that a government, a corporation, or an individual has invaded someone's privacy is regarded as a serious matter. The concept of privacy seems so obvious, so basic, and so much a part of American values, that there may seem to be little room for any philosophical misgivings about it. However, substantial philosophical controversy about the nature of privacy exists. The philosophical debate focuses largely on two major questions: What is privacy? and Can the right to privacy be philosophically justified?

Given the considerable role that privacy plays in moral and legal argumentation, one might expect that assertions about the right to privacy are emblazoned in a prominent position in the earliest philosophical and legal documents of our nation. However, the right to privacy is not explicitly mentioned or clearly discussed in the

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Declaration of Independence or the Constitution of the United States. The Declaration of Independence lists some well-known inalienable rights such as life, liberty, and the pursuit of happiness, but it does not mention privacy. The only hint of a concern for privacy occurs in the document when the signers mentioned grievances against the king such as sending "swarms of Officers to harass our people, and eat out their substance." Of course, it is understandable that privacy is not discussed in the Declaration of Independence, for the primary purpose of this document was, after all, to declare independence and not to provide a thorough and well-reasoned philosophical account of human rights.

What is surprising is that privacy is not explicitly mentioned in the Constitution of the United States. There are parts of the Constitution that support conceptions of privacy. For example, the Fourth Amendment states: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause...." This amendment provides important protection of individuals from government interference and surveillance, but it is far from a general statement of the right to privacy. Aspects of privacy are supported in other amendments. The First Amendment grants the right to peaceably assemble, the Fifth Amendment grants a right against self-incrimination, and the Fourteenth Amendment prohibits states from abridging the rights of citizens of the United States. But, all things considered, neither the Declaration of Independence nor the Constitution provides a clear philosophical conception of, or even a solid legal foundation for, the right to privacy.

Philosophical Critique of Some Legal Conceptions of Privacy

The concept of privacy has played a large role in legal discussions and judgments during the last century. Unfortunately, much of the legal work on privacy is either too eclectic, such as William Prosser's (1960) historic list of the various kinds of privacy cases, or too narrowly focused, such as the Fair Credit Reporting Act of 1970 and the Electronic Communications Privacy Act of 1986, to be philosophically revealing. However, some of the classic legal accounts of privacy are truly philosophically inspired. Here, attention will be directed to the two legal landmarks on privacy that are philosophically richest.

Privacy as Nonintrusion

In their famous 1890 *Harvard Law Review* article, Samuel Warren and Louis Brandeis provided a sensible analysis and evolutionary justification for the right to privacy. They argued that privacy was

an emerging right that needed to be recognized. They claimed that common law is not static but undergoes continuing growth as culture develops. As they put it: "Political, social, and economic changes entail the recognition of new rights, and the common law, in its eternal youth grows to meet the demands of society" (p. 75). This was a century ago, and some rather intimidating technology had been developed. The distrusted technology then was not the dreaded computer but the insidious camera:

> Recent inventions and business methods call attention to the next step which must be taken for the protection of the person, and for securing to the individual what Judge Cooley calls the right "to be let alone." Instantaneous photographs and newspaper enterprise have invaded the sacred precincts of private domestic life; and numerous mechanical devices threaten to make good the prediction that "what is whispered in the closet shall be proclaimed from the housetops." (p. 76)

For Warren and Brandeis (1984) the right to privacy was not something that is found by squinting at the Constitution but by admitting that cultural values and new technology play a large role in developing new understandings of our rights. They assigned great significance to this new right of privacy and treated a violation of privacy as a harm worse than some physical injury:

> The intensity and complexity of life, attendant upon advancing civilization, have rendered necessary some retreat from the world, and man, under the refining influence of culture, has become more sensitive to publicity, so that solitude and privacy have become more essential to the individual; but modern enterprise and invention have, through invasion upon his privacy, subjected him to mental pain and distress, far greater than could be inflicted by mere bodily injury. (p. 77)

Warren and Brandeis regarded the violation of a person's privacy as a kind of spiritual harm that should be addressed by the law and could not be addressed by then existing laws that focused on material damages.

Though their article is ground breaking and insightful, Warren and Brandeis do not provide a clear and explicit account of privacy. They cite Judge Cooley's remark that it is right to be let alone, but privacy so analyzed seems both too broad and too narrow to count as a successful definition. On the one hand if *A* approaches *B* on a public street and *A* asks *B* what time it is, *A* has not let *B* alone but neither has *A* invaded *B*'s privacy. Striking up a normal conversation on a public street is not regarded by most as an invasion of privacy. On the other hand, if unknown to *B* and without *B*'s permission, *A* looks through *B*'s personal files, then *A* has invaded *B's* privacy, but, strictly speaking, *A* has let *B* alone. It is uncertain whether Warren and Brandeis thought that actual publication of information was required in order to have an invasion of privacy. They were concerned, of course, about preventing the publication

of gossip. But, in some situations simple eavesdropping without any thought of publication is a clear invasion of privacy. Therefore, the specific publication of information or passing it along in other forms is not a necessary condition for an invasion of privacy.

Privacy as Freedom to Act

Another philosophical conception of privacy is deeply embedded in constitutional law as it has developed during the last quarter of a century. Privacy is understood in this context as liberty or freedom to act in personal matters. The relevant cases considered by the courts usually have been about sexual and reproductive freedoms. The most famous case in this regard is, perhaps, *Roe v. Wade* in which a woman's right to have an abortion was successfully argued on the grounds of privacy. To understand better how the concept of privacy is philosophically connected in constitutional law with sexual and reproductive freedoms, it is useful to look at the 1965 landmark case *Griswold v. Connecticut* in some detail. In this historic case the appellants were Griswold, the executive director of the Planned Parenthood League of Connecticut, and Buxton, a licensed physician who was the medical director for the league at its center in New Haven, Connecticut. They gave married couples advice on preventing conception. Fees were normally charged for their services which included medical exams and dispensing information about contraception and related materials. Their activity was in direct conflict with the General Statutes of Connecticut. In §§ 53-32:

> Any person who uses any drug, medicinal article or instrument for the purpose of preventing conception shall be fined not less than fifty dollars or imprisoned not less than sixty days nor more than one year or be both fined and imprisoned.

And in §§ 54-196:

> Any person who assists, abets, counsels, causes, hires or commands another to commit any offense may be prosecuted and punished as if he were the principal offender.

The appellants to the Supreme Court had been found guilty under the Connecticut Statutes and had been fined $100 each. Justice Douglas, who was philosophically inclined, wrote for the majority opinion that overturned the Connecticut statute. Douglas believed that privacy is grounded by the Constitution. He said: "[S]pecific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance.... Various guarantees create zones of privacy." Douglas asked rhetorically: "Would we allow the police to search the sacred precincts of marital bedrooms for telltale signs of the use of contraceptives? The very idea is repulsive to the notions of privacy surrounding the marriage relationship" (Grey, 1983, p. 43). Douglas

perceived the right of privacy with regard to the marital relationship as a deep cultural right predating the Constitution. He proclaimed: "We deal with a right of privacy older than the Bill of Rights—older than our political parties, older than our school system."

The other justices who agreed with Douglas's opinion disagreed with his justification. Justice Goldberg agreed that: "Connecticut's birth-control law unconstitutionally intrudes upon the right of marital privacy" but he argued that it is the Ninth Amendment that guarantees such privacy. The Ninth Amendment says that the other amendments do not exhaust the basic and fundamental rights of the people. The Ninth Amendment is a catchall amendment originally put forward by James Madison. Madison's purpose in proposing this amendment was to satisfy those who were concerned that no bill of rights would be broad enough to specifically enumerate all essential rights and that those rights not specifically mentioned might be interpreted as being denied. Justice Harlan, who agreed with Douglas's opinion, offered still another interpretation. Harlan agreed that the Connecticut statute was an unjustifiable invasion of privacy but appealed to the Fourteenth Amendment for support. Specifically, Harlan believed the due process clause of the Fourteenth Amendment was the appropriate basis for overturning the Connecticut statute. The due process clause has never been given a clear elaboration and it is far from a formula, but roughly the clause has been used to protect a wide range of liberties and Harlan maintained, as Justice White did as well, that the freedom of a husband and wife to use contraceptives is a liberty which requires such protection.

In light of *Griswold v. Connecticut,* what should we conclude philosophically about the right to privacy? This case demonstrates that any constitutional guarantees to the right to privacy depend a lot on the eyes of the beholder. Justice Douglas saw privacy in the penumbra of the Bill of Rights, Justice Goldberg saw it in the Ninth Amendment, and Justice Harlan saw it covered by the due process clause of the Fourteenth Amendment. The problem with this kind of defense of the right to privacy is that some may not see it at all. Justice Black, while agreeing with the majority that the Connecticut law was offensive, said in his dissenting opinion: "The Court talks about a constitutional 'right of privacy' as though there is some constitutional provision or provisions forbidding any laws ever to be passed which might abridge the 'privacy' of individuals. But there is not."

The *Griswold* decision rests on an even deeper confusion of the concept of privacy with the concept of liberty. The real issue in *Griswold v. Connecticut* is the question of whether a married couple should have the freedom to obtain information about contraception and to use contraceptive methods. All of the constitutional arguments

about privacy in this case can be replaced with arguments about contraceptive liberty. This liberty can be placed in the penumbra of the Bill of Rights or included in the protection of the Ninth Amendment, or covered by due process stated in the Fourteenth Amendment. Or one might hold that the issue of contraception isn't a constitutional matter at all, and that the people of Connecticut should persuade their legislators to repeal such an asinine law. But on any of these views the issue remains a question of liberty. Ironically, the state of Connecticut could never have enforced this law if it were violated privately. It was only the *public* flaunting of the law that gave rise to the court case.

The separation of the concept of privacy from the concept of liberty is important because we do not want the right to privacy to become a screen to protect truly harmful actions. A married couple, *A* and *B*, should have a right to privacy, but their privacy does not give *A* the freedom to beat *B* or *B* the liberty to poison *A* or *A* and *B* the right to torture their children. Distinguishing privacy from particular freedoms allows us to argue for privacy without licensing abuse. A common motivation for citing privacy in cases like *Griswold* is to protect individuals against intrusive laws for victimless crimes. As important as this may be, the conflation of personal freedoms with privacy only confuses the discussions of both and can put the defense of the important right of privacy in the service of protecting violent crimes.

A Philosophical Look at the Concept of Privacy

The concept of privacy has been analyzed extensively by contemporary philosophers. Philosophers, like everyone, have been struck by the broad dissemination and the forceful impact of information technology during the last few decades. Therefore, it is not surprising that most contemporary philosophical accounts of privacy tie it closely to the concept of information.

Privacy as Control of Information

Privacy is frequently defined in terms of control of information. For example, Charles Fried (1984) states: "Privacy is not simply an absence of information about us in the minds of others, rather it is the *control* we have over information about ourselves" (p. 209). Alan Westin (1967) says that privacy is the claim that individuals and groups determine for themselves when, how, and to what extent information about them is communicated to others. Elizabeth Beardsley (1971) suggests that persons have the right to decide when and how much information about themselves will be revealed to others (p. 65).

Although control of information is clearly an aspect of privacy, these definitions emphasizing control are inadequate for there are many situations in which people have no control over the exchange of personal information about themselves but in which there is no loss of privacy. Consider some examples. *A* can tell *B* widely known personal information about *C* in a situation in which *C* has no control but in which *C* suffers no loss of privacy. For instance, in normal situations, *A* can tell *B* *C*'s name or where *C* lives or that *C* likes the Boston Celtics without diminishing *C*'s privacy. Moreover, if control is construed to mean direct, personal control of information, then on the control theory of privacy we are giving up privacy whenever we tell anyone anything about ourselves if there is no direct control over what the other person will do with the information. This seems at best counterintuitive. For instance, personal information confided to a doctor will be passed on to other doctors and to nurses in normal medical practice beyond a patient's control and yet without any invasion of the patient's privacy. Furthermore, because personal information about us is stored in computer databases, most of us have no control over how that stored information is used. Of course, these data banks are a potential threat to privacy if the stored information is improperly released. However, if the information in these databases is properly used or, even more clearly, not used at all, then privacy is not diminished by the simple lack of control over that information. For these reasons the very popular control theory of privacy is not an adequate conception of privacy.

Privacy as Undocumented Personal Knowledge

An interesting definition of privacy involving information has been proposed by W.A. Parent (1983). Parent states: "[P]rivacy is the condition of a person's not having undocumented personal information about himself known by others" (p. 346). Parent maintains that "personal information" properly refers to facts that most people in a given society choose not to reveal about themselves (except to friends, family, advisors, etc.) or to facts about which a particular person is extremely sensitive and which he therefore does not choose to reveal about himself" (pp. 346-47). Parent explains that height may be personal information for someone who is ultra-sensitive about being short and who tries desperately to conceal his actual height even from his closest friends. Parent does not explain in detail what counts as undocumented personal information but gives as an example of documented information an item in an old newspaper. Thus, according to Parent, if *A* finds out by browsing through an old newspaper that *B* was a convicted felon, then *A* has not invaded *B*'s privacy for this information is documented.

Parent's definition of privacy focuses on the content of information, not the control of information. As a result, his definition avoids some of the criticisms of the control theory of privacy. To criticize the control theory, Parent imagines a situation in which *A* has a fantastic X-ray device that allows *A* to look through walls. If *A* aims the machine at *B*'s house but doesn't look through the machine, then *A* has deprived *B* of control of personal information but has not invaded *B*'s privacy (p. 344). In Parent's example, *A* threatens *B*'s privacy but has not gained any undocumented personal information about *B*, and so on Parent's account, *B*'s privacy remains intact. But there are other cases in which Parent's undocumented personal knowledge theory fares less well than the control theory. Suppose while *B* is away from her personal computer, *A* uses it to call up *B*'s personal diary and lists the contents of the diary on the screen. Also suppose *A* is distracted so *A* does not read the screen and does not gather any undocumented personal knowledge of *B*. This surely seems to be a violation of *B*'s privacy and would be so classified by the control theory of privacy but not by the undocumented personal information theory.

Parent's personal information view not only misses some cases of privacy violations but also includes some cases which do not seem to be privacy violations at all. If in a public meeting *A* notices that *B*, who happens to be ultra-sensitive about his height, is wearing elevator shoes and *A* concludes that *B* is short, then *A* has gained some undocumented personal knowledge about *B*, but clearly *A* hasn't invaded *B*'s privacy. If *A* learns from casual conversation a widely known, but undocumented fact that *B* is an alcoholic, then *A* has gained some undocumented personal knowledge about *B*, but again *A* has not invaded *B*'s privacy.

Privacy as Restricted Access

The conception of privacy that is most defensible is the conception of privacy in terms of restricted access. Anita Allen (1988), Ruth Gavison, and others have offered variations of restricted access definitions. The core idea of restricted access accounts is that privacy is a matter of the restricted access to persons or information about persons.

By my definition, an individual or group has privacy in a situation if and only if in that situation the individual or group or information related to the individual or group is protected from intrusion, observation, and surveillance by others. The vague word *situation* was deliberately chosen with the intent that it would range over the kinds of states of affairs to which we normally attribute privacy. A situation may be an activity in a location such as living in one's home, or a situation may be defined by a relationship such as a

lawyer/client relationship or a situation may be the storage and use of information related to people such as information contained in a computer database. The paradigm example of a private situation is a situation in which one is protected from the prying eyes of others. Private situations are islands of epistemological sanctuary.

There are two kinds of private situations—*naturally private* and *normatively private.* Naturally private situations are situations in which people, because of the circumstances of the situation, are naturally protected from intrusion or information-gathering by others. Thus, if, for example, a family is alone hiking in the woods, they are in a naturally private situation. Nobody else is around and they are naturally protected by the forest from observation by others. Now, if a troop of girl scouts suddenly appears in the woods on the trail in front of this family, they lose their natural privacy. The girl scouts intrude and observe them. Of course, they are doing nothing wrong as they have every right to be there. A loss of natural privacy is not automatically an invasion of privacy. However, in addition to naturally private situations there are also normatively private situations. In normatively private situations the protection may be natural but is essentially legal or moral. In normatively private situations, some people (the outsiders) are morally or legally forbidden from intruding or gathering information about others (the insiders) who are allowed in the situation. Thus, if a family is enjoying a videotape in their home, they are in a normatively private, as well as a naturally private, situation. If a troop of girl scouts comes to a window of their house and the girl scouts secretly peer through the window to watch this family, privacy will be lost. Because in this situation there is normative protection, the family has a right to complain. The girl scouts are outsiders to the situation, and they have violated the right to privacy. The distinction between natural and normative privacy is crucial in defending a restricted access account. Not every situation in which one observes someone else or gathers information about someone else does or should count as a violation of privacy. When walking down a public street, one may give up some natural privacy but not normative privacy.

Which situations are normatively private and which are not? One answer to this question is that the nature and kind of situations that are private is culturally determined. Obviously, cultures do vary about what is considered a (normatively) private situation and what is not. Moreover, the boundaries of private situations for one culture will likely change over time. However, another more complex, but equally true, answer to the question is that the nature and kind of situations which ought to be private is open to rational and moral argument. In general, privacy allows one to gain goods such as enhancing liberty and controlling personal development and to avoid

evils such as suffering psychological and economic losses. But, privacy is not an unalloyed good for it has its costs as well. One cost of privacy is that it makes social and political institutions less effective which in turn may be detrimental to individuals. For example, treating the use of medical records as a private situation will protect patients but may retard the general search for medical information by epidemiological researchers who would use such information to isolate the causes of diseases.

The restricted access conception of privacy just discussed has advantages over the other conceptions of privacy without sharing their disadvantages. The key notion in this view of privacy is the concept of a private situation. Compare this concept with the notion of undocumented personal information in the following cases. On the one hand, suppose *A* is taking a shower at a public bath which has no shielding partitions for the bathers. Now *B*, a member of the same sex, walks into the public bath. *B* suddenly gains a lot of undocumented personal knowledge about *A*, and yet *B* has not invaded *A*'s privacy. In our culture this is a situation in which *A* is not protected from someone else of the same sex from making observations. If *A* has undocumented personal information *A* wishes to keep secret but which would be revealed by public showering, then *A* should shower in a more private situation. Of course *B* would invade *A*'s privacy if *B* came uninvited into *A*'s private bath at home to view *A*. It is the situation that makes the difference in the judgment of privacy and not the kind of information. Consider another example. Suppose *A*, outside of *B*'s hotel room, looks through the keyhole at *B*. *B* is dressed and reading the evening newspaper. Here *A* is invading *B*'s privacy, for one's hotel room is regarded, at least in this culture, as a private situation. It is not the undocumented personal information that *A* gains that matters. Indeed, it may be widely known and documented that *B* always reads the evening newspaper at that time in her hotel room. It is the unauthorized surveillance by *A* of a private situation that counts as the invasion of privacy.

Control of information is important for privacy, but again it is the notion of a private situation that makes the difference. Here is an example that contrasts the two theories. Suppose *A* confesses personal information to a priest *B*. Though *A* has no control over what *B* will do with the information, confessions are regarded in this culture as a private situation. The loss of control does not entail any loss of privacy. Clearly, if the confessional moment had been recorded clandestinely by someone else, then there would have been an invasion of a private situation and a corresponding loss of privacy.

The restricted access view of privacy clarifies some of the legal intuitions about privacy discussed earlier. The notion of a private situation is not unlike Douglas's concept of a "zone of privacy." A

normatively private situation, such as living in one's home, fosters personal freedoms since insiders cannot be intimidated by the presence or observations of outsiders. Private situations give us zones of protection to do what we want to do within the limits of personal freedom. Again, note the crucial distinction between privacy and liberty. Privacy provides an umbrella under which to act freely, but there are limits. Child molesting, for instance, is not a freedom protected under the umbrella of privacy. Hence, although it is important not to conflate privacy with liberty, it is equally important not to underestimate the degree to which privacy, understood as normative private situations, provides a supportive environment for personal freedoms.

Finally, the restricted access view is compatible with portions of the nonintrusion account. The restricted access view, as presented here, counts intrusions as violations of privacy only so long as they interrupt private situations. Intrusions on public streets are not invasions of privacy. But, unauthorized manipulations of computer databases by using personal computers and modems are intrusions into private situations, and therefore, these are invasions of privacy. Because invasions of privacy can involve more than intrusions, the restricted access view is more comprehensive than a simple nonintrusion account.

A feature that is particularly attractive about the restricted access theory of privacy is that it gives technology the right kind of credit for enhancing privacy and the right kind of challenge for protecting privacy. Giving technology credit for enhancing privacy acknowledges that we owe a lot of privacy today to modern technology. Technology has generated the possibilities for many normatively private situations. This technology is so common that we take it, and its consequences for privacy, for granted. For instance, the technology for food production, distribution, and preservation enables us to be in private situations for extended periods of time. Central heating and better insulation allows rooms in houses and businesses to be enclosed and private. Modern water, power, and sanitation systems support lives of privacy. Even computer technology, which is often portrayed as the greatest threat to privacy, can enhance it. Withdrawing money from an automatic teller after banking hours is more private than talking to a human bank teller in the middle of the day. Without all of these modern technologies, our lives arguably would be much less private than they are now.

The restricted access theory also suggests the right questions for keeping technology in check. As technology develops, we need to ask what kinds of restrictions should be put on the access to individuals and information about them in order to protect privacy. What kinds of restricted situations—zones of privacy—will give us

better lives? Rather than asking abstract questions about personal control of information or undocumented personal information, we should ask whether and how specific situations should have restricted access. For example, as library circulation records become more computerized, the resulting circulation databases ought to be regarded as zones of privacy. The issue is not whether a borrower should have control of his or her lending record in the database, but whether there is restricted access to the data so that borrowers feel the freedom to read what they please without scrutiny from the FBI or other outside organizations. One of the features of computers is that circulation records can be even more restricted than the traditional paper records. In a typical situation using computerized circulation records, a librarian need not have access to information about who has borrowed a particular item in the past. Computer technology can protect zones of privacy as well as invade them.

Justifying Privacy

Philosophers have offered a variety of justifications of privacy as an important value. Stanley Benn suggests that privacy is grounded in respect for persons. As Benn puts it: "To *respect* someone as a person is to concede that one ought to take account of the way in which his enterprise might be affected by one's own decisions." This type of justification for privacy is both popular and at least initially plausible. One problem with giving respect for persons as a justification for privacy is that it does not distinguish between times in which privacy is justified and times in which it is not. For instance, a mother might have respect for her baby as a person, conceding that she ought to take account of the way in which her baby's enterprise might be affected by her own decisions and still not give her baby privacy. Now the mother might conclude that she will not give her baby any privacy just because she does respect her baby as a person! In general, *A* may have respect for *B* as a person and not grant her privacy, for *A* may conclude that, at least in certain circumstances it is in *B*'s best interest not to have privacy—e.g., *A* decides to save *B*'s life by rushing into her private home at night to save her from a fire. Respect for persons is at most a general background principle for justifying privacy and not a sufficient principle by itself for deducing the need for privacy in particular cases.

Other philosophers have offered more straightforwardly instrumental justifications for privacy. Charles Fried (1984) says that privacy is necessary for love and friendship (pp. 207-09). James Rachaels (1984) suggests that privacy is needed to create diverse social relationships (p. 292). Deborah Johnson (1985) argues that privacy

increases personal autonomy (p. 67). All of these are certainly plausible justifications for privacy, for private situations do foster diverse kinds of relationships and autonomous decision making.

These instrumental justifications of privacy are the overwhelming philosophical favorites and may be adequate to ground the moral notion of privacy. However, I believe that for some people privacy may be valued intrinsically, that is, valued for its own sake. Of course, to claim that privacy may have intrinsic value is compatible with claiming that privacy is also instrumentally valuable. The possibility of intrinsic value is worth exploring. As a thought experiment, consider someone who has his entire life under surveillance by others. These others do not interfere with his life and he doesn't know that the surveillance is taking place. In effect, all private situations for this person are invaded, but his life is no different with regard to making decisions and having diverse relationships than it would have been without the surveillance. The only thing different about his life under surveillance is that he has no privacy. This person seems morally wronged by the invasion of his privacy though no special harm comes to him other than the invasion of his privacy. This thought experiment suggests that privacy has an intrinsic justification as well as an instrumental one. If this is the case, then, philosophically speaking, privacy is that much more secure.

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