Surveillance and Privacy

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Dr. Atoosa Kasirzadeh
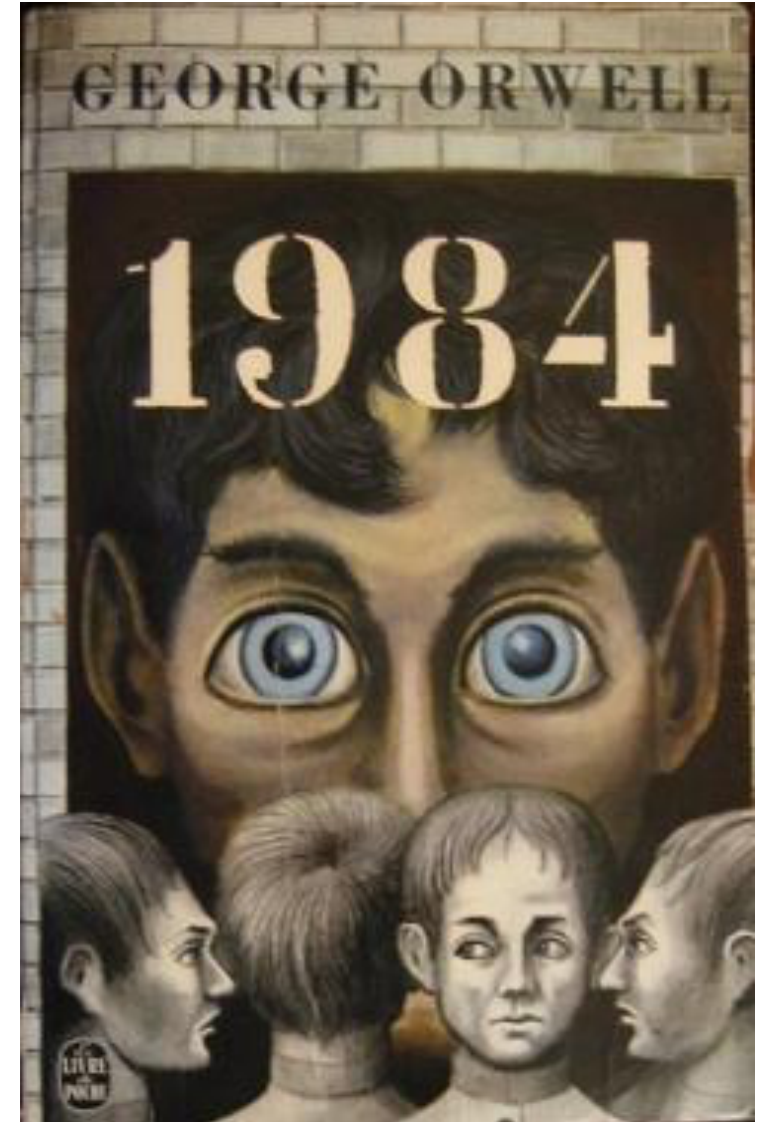
What is surveillance?

- Paying close and **sustained** attention to another person for a particular reason

- Distinct from casual, yet focused people watching/listening/smelling in a café or bar or street (or bugging a telephone call)

History of the discourse

- Jeremy Bentham's "panopticon" and then George Orwell's "big brother"

Hermes tötet den Argos in Gegenwart des Zeus, Vase in London (?) nach *Annali d. I.* 1865 Tav. d'agg. I K; s. Sp. 277, 6 ff.

Ethics of surveillance

- Is surveillance value-neutral which may be used for good or ill? Or is it always problematic?

- What are the benefits and harms of surveillance?

- Are there circumstances under which someone should never be under surveillance?

Is surveillance ethical?

- Both the Panopticon and Big Brother are authoritarian and negative images which lend weight to the suggestion that surveillance is always unethical or problematic

- Is surveillance unethical or value-neutral?

- One of the core arguments against surveillance: it **poses a threat** to **privacy**, which is of value to the individual and to society

What is privacy?

1. The right to privacy is an instance of the "right to be let alone", limits to that right, it is not absolute (Warren and Brandeis, 1890)

2. Legal cases, such as Katz v. United States (1967): privacy and surveillance are related to the Fourth Amendment of the US Constitution (forbidding unreasonable search and seizure by the state)

3. The right to privacy involved the right to make important choices without government intervention, drawing a connection between privacy and autonomy (Baird, 1972)

What is privacy?

- The right to privacy consists of a cluster of rights which overlap with both property rights and rights of the person. there are no privacy rights which do not overlap with clusters of other rights, and so there is no distinct right to privacy. A violation of someone's right to privacy only occurs when one of these other rights has also been violated in a relevant manner.

- Thomas Scanlon (Scanlon 1975) responded by arguing that Thomson's analysis was convoluted and counter-intuitive. Instead he proposed that we have socially-defined zones of privacy which enable us to act with the assumption that we are not being monitored. These zones are motivated by our interest in not having to be alert to specific observation at all times.
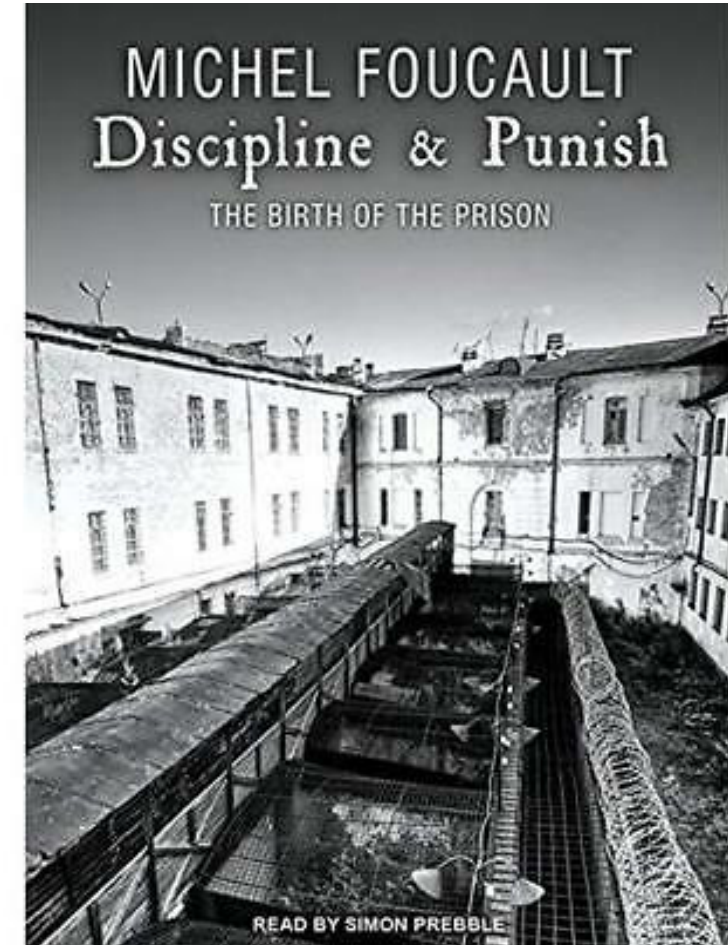
What is privacy?

- James Rachels (Rachels 1975), responding to both Thomson and Scanlon, argued that privacy was rather a matter of relationships. In defining our relationships with others, we use varying degrees of privacy to establish intimacy. With a stranger we uphold a high degree of privacy, whilst with a close family member we may have and expect much less privacy. Indeed, he argued, what it means to be a friend is for the relationship to involve less privacy than would otherwise be the case.

- **Differential privacy** is a system for publicly sharing information about a dataset by describing the patterns of groups within the dataset while withholding information about individuals in the dataset. Roughly, an algorithm is differentially private if an observer seeing its output cannot tell if a particular individual's information was used in the computation.

Michel Foucault and Panopticism

Development of surveillance studies in light of Michel Foucault

- An overview of the history of prisons
- The value the prisons serve
- The study began with torture
- Emphasis on sovereignty and power of the king.
- Enlightenment: prison as the efficient means of punishment
- Panopticon means of punishment
- Prison combined with workhouse and hospital
- Deprive inmates of their freedom
- To discipline and reform them

MICHEL FOUCAULT
Discipline & Punish
THE BIRTH OF THE PRISON

READ BY SIMON PREBBLE

Foucault on surveillance in the case of quarantine

- The end of the 17th century, the plague appeared in a town

- Surveillance based on a system of permanent registration of
  - the name, age, sexuality, conditions of the inhabitants
  - An inhabitant goes to a doctor: everything is registered concerning their visit: illnesses, deaths in family, complaints, irregularities and is given to the magistrates
  - The magistrate have complete control over medical treatment (a given medical doctor)
  - The quarantine begins

- Against the plague, discipline (for the purpose of analysis) brings into play its power: disciplinary partitioning

- The plague-stricken town traversed throughout with hierarchy, surveillance, observation: the Utopia of the perfectly governed city

- Now, abstract from the people with plague to people with potential to be mad (as opposed to sane); dangerous (as opposed to harmless); abnormal (as opposed to normal)

- We see at work a dualistic mechanism for exclusion (at psychiatric asylums, at hospitals, at the approved school)

- Bentham's panopticon: the architectural figure of this composition

- A multiplicity that can be numbered and supervised

- The invisibility of individuals from each other is a guarantee that disorder does not happen: it is a guarantee of order (no danger of a collective plot, or a collective escape)

- The panopticon ensures that:
  - An inhabitant of a cell sees the tall outline of the central tower: **power** is **visible**
  - An inhibitor never knows whether they are being looked at at any specific moment: **power** is **unverifiable**
  - **Panopticon provides an arrangmenet that automatizes and disindividualizes power**

- By a panopticon arrangement: the house of certainty

  - It is not necessary to use force to constrain the mad-person to calm, the convict to good behavior

  - No need to use heavy locks anymore

- Panopticon as a laboratory of power
  - Being used as a machine to perform experiments, to alter behavior, to train or to control individuals, to teach different techniques to the workers, to decide what is the best

Panopticon as a

- Generalizable model of functioning

- Way of defining power relations in terms of the everyday life of humans

- Way of distribution of individuals in relation to one another (supervising workers, instructing schoolchildren, reforming prisoners)

- Reduce the number of those who exercise it, increase the number of those on whom it is exercised

- Panoptic schema: easy once you've thought of it!

- It can be integrated into any function (education, medical treatment, production, punishment)

- Arranges things in such a way that the exercise of power is not added on from the outside, like a rigid and heavy constraint

- Panopticism is the general principle of a new "political anatomy" whose object and ends are not the relations of sovereignty but the relations of discipline

  - Discipline blockade: turn inwards toward negative functions: arresting evil

  - Discipline mechanism: a functional mechanism that must improve the exercise of power by making it more lighter, more rapid, more effective

- We have reached at a true disciplinary society

What are disciplines?

- Techniques for assuring the order of human multiplicities

- Disciplines try to define in relation to the multiplicities a tactics of power that fulfils three criteria

    1. Exercise of power at the lowest possible cost

    2. Bring the effects of this social power to their maximum intensity, and to extend them as far as possible

    3. Link this economic growth of power to the outputs of the elements of the system (educational, military, industrial, medical)

- The societies of Antiquity age: the societies of spectacle (amphitheaters, stages)

- The modern age and the ever-growing influence of the state: the societies of surveillance (panoptic machine)

- The formation of the disciplinary society is connected with a number of broad historical processes: economic, juridico-political, and scientific

Summary

- Panopticon as a laboratory of power

- Its spatial arrangements provide a unique mechanism for observation

- Gaining efficiency and penetrating to human's behavior (those who are in cells)

- Panopticism has become a generalized model for social institutions (hospitals, schools, prisons)