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Source: *The Library Quarterly*, Vol. 81, No. 2 (April 2011), pp. 187-209

Published by: [The University of Chicago Press](#)

Stable URL: <http://www.jstor.org/stable/10.1086/658870>

Accessed: 14/10/2013 14:19

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FOURTEEN REASONS PRIVACY MATTERS: A MULTIDISCIPLINARY REVIEW OF SCHOLARLY LITERATURE¹

Trina J. Magi²

Librarians have long recognized the importance of privacy to intellectual freedom. As digital technology and its applications advance, however, efforts to protect privacy may become increasingly difficult. With some users behaving in ways that suggest they do not care about privacy and with powerful voices claiming that privacy is dead, librarians may question whether privacy is worth protecting. This article reviews some of the extensive scholarly literature on privacy from disciplines outside the field of library science, including anthropology, law, philosophy, political science, psychology, and sociology, and it identifies fourteen reasons privacy matters to individuals, relationships, and to society. It also discusses the challenge of defining privacy and addresses the question of how the concept of privacy spans cultures. Librarians may find this broader understanding of the value of privacy useful in affirming and defending their commitment to the privacy of library users.

Introduction and Background

At least since the adoption of the American Library Association's (ALA) first *Code of Ethics* in 1939, librarians have acknowledged that the right to privacy is necessary for intellectual freedom [1]. Privacy enables library users to pursue any topic or question of interest and to read and view information without fearing judgment, surveillance, punishment, or ostracism. Librarians have protected this right in small, quiet ways in their day-to-day work, and from time to time, they also have worked to protect it in more public ways, by opposing the Library Awareness Program and the USA PATRIOT Act, for example [2].

Librarians have said that privacy and the freedom to read are critical

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[*Library Quarterly*, vol. 81, no. 2, pp. 187–209]

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0024-2519/2011/8102-0003\$10.00

for the success of democratic government, in which people are to be their own informed governors. They have warned people about the chilling effect and self-censorship that may occur if library users feel they are being watched and placed under suspicion based on what they read. This is certainly an important concern, and perhaps it should be enough to motivate librarians to adhere to the profession's *Code of Ethics*. As digital technology and its applications advance and proliferate, however, efforts to protect privacy become increasingly difficult. In addition, while there is evidence that people, including young people, care about privacy [3–5], they sometimes behave in ways that suggest otherwise [6–9], and powerful voices from the corporate world are proclaiming that privacy is dead [10]. In light of these factors, some librarians may question whether the right to privacy is worth the trouble it takes to protect it. If librarians are to remain among society's guardians of privacy, it will be valuable to have a broader and deeper understanding of what is at stake—of the many and varied ways in which privacy contributes to the well-being of both individuals and society.

Scope

This article attempts to expand librarians' understanding by reviewing scholarly literature on privacy from a wide variety of disciplines outside the field of library science, including anthropology, law, philosophy, political science, psychology, and sociology. (The appendix lists the disciplines of authors cited.) After discussing the challenges of defining privacy and addressing the question of whether privacy is a value that spans cultures, the article traces a number of major themes in the literature, enumerating a host of individual, interpersonal, and societal goods that are made possible by privacy.

The volume of literature on privacy is immense; a recent search in the WorldCat database on the descriptor "privacy" yielded titles of more than 15,000 books. The books, book chapters, and articles included in this review are but a small sampling of the literature, identified by first querying experts and then following the threads of the scholarly debate published over time. This review does not claim to be comprehensive or evaluative, and it naturally struggles with the difficulty of summarizing deep and complex arguments in mere sentences and paragraphs. It is hoped, however, that readers will find it an interesting introduction to selected scholars and key arguments about why privacy matters, will be motivated to read some of the works cited in their entirety, and will be reinvigorated in their commitment to the ALA *Code of Ethics*.

The Problem of Defining “Privacy”

According to the *Stanford Encyclopedia of Philosophy*, the concept of privacy has roots in philosophical discussions including Aristotle’s distinction between the public sphere of political activity and the private sphere of domestic family life. There is considerable confusion, however, over the meaning, value, and scope of the concept of “privacy,” and the term has no single definition [11].

In their germinal article “The Right to Privacy,” an essay often considered the beginning of the written discussion of the concept of privacy in U.S. law, Samuel Warren and Louis Brandeis [12] held that the law recognized the right to privacy as a special case of the right “to be let alone,” a phrase they attributed to Judge Cooley. Ferdinand Schoeman says that when they wrote that article in 1890, there was no explicit legal discussion of the right to privacy, and until the 1960s, there was no major philosophical discussion of the value of privacy [13, p. 1]. In his 1960 law review article, William Prosser considers over 300 privacy cases in the books since the Warren and Brandeis essay, and he finds not one but four torts—a complex of distinct and only loosely related kinds of interference of the plaintiffs’ right to be let alone: (1) intrusion upon a person’s seclusion, solitude, or private affairs, (2) public disclosure of embarrassing facts, (3) publicity that places a person in a false light, and (4) appropriation of a person’s name or likeness for the advantage of another [14, p. 389].

There is considerable debate in the literature about whether privacy is derived from other rights such as ownership rights or the right not to be harmed, as stated by Judith Jarvis Thomson [15], or a unique right, as claimed by Ruth Gavison [16] and Jeffrey Reiman [17]. Mark Alfino and Randolph Mayes argue that privacy is a fundamental, moral right to which people are entitled, rather than simply a constitutional or legal right or a right that can be explicated in terms of other rights such as property, life, or liberty [18].

Daniel Solove finds Prosser’s synthesis of cases that emerged from the Warren and Brandeis essay to be far too narrow and inadequate in the information age, in which new technologies have raised many privacy problems that do not fit into Prosser’s four categories. In his review of the philosophical and legal discourse on privacy, Solove identifies six general types of definitions of privacy: (1) the right to be let alone, (2) the ability to limit access to the self by others, (3) secrecy or concealment of certain matters, (4) the ability to control information about oneself, (5) the protection of one’s personhood, individuality and dignity, and (6) control over one’s intimate relationships or aspects of life [19, p. 1092].

Solove is concerned that the lack of clarity about what people mean

when they say that privacy should be protected makes it difficult to make policy and resolve court cases because legislators and judges “cannot easily articulate the privacy harm” [20, p. 480]. He is critical of others’ attempts to reduce the privacy concept to a single essence, often finding the results too broad and vague to be useful in addressing concrete issues. Instead, Solove argues that “privacy is best understood as a family resemblance concept” [20, p. 485], in which various kinds of privacy disruptions are different from one another yet share important similarities, much like members of a family may not share a single common characteristic but are related to one another through a network of overlapping and criss-crossing similarities. He suggests that the term “privacy” should be used as a shorthand umbrella term for a related web of issues [21, p. 12].

In describing this web of issues, Solove says that privacy is “the relief from a range of kinds of social friction” that “enables people to engage in worthwhile activities in ways that they would otherwise find difficult or impossible” and “protection from a cluster of related activities that impinge upon people in related ways” [20, p. 484]. He has identified and organized these problematic and harmful activities in a taxonomy of four groups with subgroups: (1) information collection (including surveillance, interrogation), (2) information processing (including aggregation, identification, insecurity, secondary use, exclusion), (3) information dissemination (including breach of confidentiality, disclosure, exposure, increased accessibility, blackmail, appropriation, distortion), and (4) invasion (including intrusion, decisional interference) [20, p. 490].

Solove suggests that his taxonomy allows for the recognition of “structural” privacy problems, or the creation of risk that a person might be harmed in the future in the same way that environmental harms and pollution accumulate over time and increase the risk that harm will occur [20, p. 487]. He explains: “In many instances, privacy is threatened not by singular egregious acts but by a slow series of relatively minor acts, which gradually begin to add up” [21, pp. 20–21].

Is Privacy Valued across Cultures?

It is likely that the difficulty in defining privacy stems in part from the fact that the notion of privacy is culturally relative and contingent on factors such as economic status and availability of technology [11]. Alan Westin claims that although particular behaviors vary considerably across cultures, “needs for individual and group privacy and resulting social norms are present in virtually every society” [22, p. 13], and he cites a host of anthropological studies documenting the various ways societies achieve privacy. His examples include the following: (1) men of the Tuareg tribes of

north Africa veil their faces and adjust the veil according to the nature of various relationships and distance-setting processes; (2) the Javanese living situation seems to offer no privacy, but people achieve privacy through psychological devices such as speaking softly, hiding their feelings, and practicing a lack of candor in speech and behavior; (3) the Papago, who live ten people to a one-room house, maneuver without touching one another, while Europeans, who have more space, continually touch each other; (4) few cultures practice total nudity; and (5) most societies have rules limiting free entry into a house or rules limiting what a person may touch or where he or she may go in the house.

Westin also cites studies of animal behavior and social organization that suggest that humans and animals share basic mechanisms for claiming privacy. He says "the animal's struggle to achieve a balance between privacy and participation provides one of the basic processes of animal life. In this sense, the quest for privacy is not restricted to man alone, but arises in the biological and social processes of all life" [22, p. 11]. Barry Schwartz makes the case that even infants and small children have the privacy impulse. The infant may go to sleep or wriggle away from the grasp of an adult to withdraw from the "field of stimulation." Later, he or she learns that he/she can offer or hold back certain facial expressions and dispositions as a causal agent with the power of voluntary reserve. And when the infant becomes ambulatory, he or she realizes great control over his/her audience and delights in "hiding" [23, p. 749].

In his exploration of the basis for human rights concepts such as the individual self, autonomy, agency, and privacy, Larry Nucci examines a number of fairly recent studies and finds that "areas of personal choice and discretion are maintained by individuals across a range of cultures" and that "the personal is not an invention of Western culture, but a psychological necessity for the establishment of the social self" [24, pp. 372–73]. He concludes that "the individual construction of a personal domain of choice and privacy generalizes across cultures, and is not restricted to persons who live within Western or 'modern' societies" [24, p. 376].

Why Privacy Matters

Following are fourteen reasons privacy matters, drawn from a multidisciplinary reading of scholarly literature and organized into three broad sections: (1) benefits to the individual, (2) benefits to personal relationships, and (3) benefits to society. The reasons identified within each section are intended to represent unique concepts, but because it is difficult to create perfectly discrete categories, the reader may find some degree of overlap among them.

Benefits to the Individual

1. *Privacy protects from overreach of social interactions and provides opportunity for relaxation and concentration.*—In their essay identifying a right to privacy, Warren and Brandeis were responding in part to the intrusive impact of “modern devices” such as photography when they wrote that “the intensity and complexity of life, attendant upon advancing civilization, have rendered necessary some retreat from the world” [12, p. 196]. As Gavison expresses it, the “concern for the opportunity to have solitude and anonymity is related not only to the wish to conceal some kinds of information, but also to needs such as relaxation, concentration, and freedom from inhibition” [16, p. 435]. Using a theater metaphor, Erving Goffman discusses the importance of “backstage” areas where a person “can relax; he can drop his front, forgo speaking his lines, and step out of character” [25, p. 70].

Ferdinand Schoeman adds that privacy protects us from “social overreaching” and gives individuals social freedom by limiting the control that others have over their lives. It does this, he says, by allowing individuals to choose their associational ties with various groups. Privacy is what allows them to reveal different parts of themselves depending on the group and to keep different spheres of involvement separate. This, in turn, limits the amount of control that any one group can have over its members [26].

2. *Privacy affirms self-ownership and the ability to be a moral agent.*—Jeffrey Reiman identifies privacy as the “social ritual by which we show one another that we regard each person as the owner of herself, her body, and her thoughts” [27, p. 205]. Through privacy, he says, society lets the individual know he or she has the ability and the authority to withdraw from others’ scrutiny, and “those who lose this ability and authority are thereby told that they don’t belong to themselves; they are specimens belonging to those who would investigate them” [27, p. 205]. Reiman claims that we understand only selves that think of themselves as “owning themselves” to be “moral selves”—selves that accept ownership of and responsibility for their actions [27, p. 206]. Understood this way, privacy is a fundamental right that enables people to think of their existence as their own and “protects the individual’s interest in becoming, being, and remaining a person” [17, p. 44]. As evidence (though not proof) of the fact that privacy is essential to the creation and maintenance of selves, Reiman refers to Goffman’s study “On the Characteristics of Total Institutions,” which says that such institutions (e.g., prisons) include deprivation of privacy as an essential ingredient in achieving their goal of mortification of the self [17, p. 40].

Stanley Benn says the reason we allow people privacy is not to give them a better chance to be autonomous; rather, autonomous persons are worthy

of respect and entitled to be unobserved unless there are overriding reasons against it [28, p. 26]. He argues that even “secret watching,” in which one might say no actual harm is done because the spying is not known by the watched person, is wrong because “it deliberately deceives a person about his world, thwarting, for reasons that *cannot* be his reasons, his attempts to make a rational choice. One cannot be said to respect a man as engaged in an enterprise worthy of consideration if one knowingly and deliberately alters his conditions of actions, concealing the fact from him” [28, pp. 10–11], and “for anyone to watch without his knowledge is to show disrespect not only for the privacy that may have been his choice, but, by implication, for him, as a chooser” [28, p. 11].

Gavison admits that there have always been some autonomous individuals in totalitarian societies, and therefore privacy may not be necessary for autonomy. But she says the fact that most people require privacy is enough to justify it as a value, because “we are not all giants, and societies should enable all, not only the exceptional, to seek moral autonomy” [16, p. 450]. Charles Fried describes a “most basic” form of complete privacy in which privacy serves not to protect things we will share only with friends but to protect certain thoughts from the whole world. Although the sharing of certain thoughts with a lover or friend, he says, would be a “hostile act,” the thinking of those thoughts is completely consistent with friendship and love because “these thoughts, prior to being given expression, are mere unratified possibilities for action” [29, p. 485]. Only when we express thoughts do we adopt them and choose to make them part of ourselves, he says, and this is why privacy is essential to the freedom to define ourselves. Julie Inness also talks about privacy providing a sphere of autonomy in which a person can develop a self-concept as an originator of love, liking, and care [30, p. 107].

In their theory of privacy as a fundamental moral right, Alfino and Mayes contend that a person requires personal space in order to reason about his/her choices, that reasoning activity is what links rational agency and moral autonomy, and that to deprive a person of her ability to reason is to fundamentally interfere with a person’s capacity for self-government. According to this framework, privacy is “the condition of having secured one’s personal space, by which we mean the right to exercise our practical reason without undue interference from others” [18].

3. *Privacy prevents intrinsic loss of freedom of choice.*—Reiman claims that loss of privacy may mean an intrinsic loss of freedom, because “privacy is not just a means of protecting freedom; it is itself constitutive of freedom in a number of important ways” [27, p. 204]. He explains that if certain things are not shielded by privacy, people are automatically and directly denied important choices, not because of a fear of certain consequences but be-

cause without privacy they would not be choices in the first place. For example, “for me to be able to decide who touches my body, or who knows the details of my personal history, those things must not be generally accessible to others at their discretion” [27, p. 204]. Furthermore, the loss of privacy sometimes changes an act itself, because some actions have a different nature when they are observed. For example, criticizing someone in public is a different act than saying the same thing in private [27, p. 204]. When information about every action is recorded, certain actions become different. The act of buying gas is no longer simply a purchase; it is now also the creation of a record of a person’s whereabouts at a particular time. Applying for life insurance is also the creation of a permanent record about one’s health [31, p. 161].

Edward Bloustein also provides examples that may fall into this category: “When a newspaper publishes a picture of a newborn deformed child, its parents are not disturbed about any possible loss of reputation as a result. They are rather mortified and insulted that the world should be witness to their private tragedy,” and “when an author does a sympathetic but intimately detailed sketch of someone, who up to that time had only been a face in the crowd, the cause for complaint is not loss of reputation but that a reputation was established at all. The wrong is in replacing personal anonymity by notoriety, in turning a private life into a public spectacle” [32, p. 979]. Without privacy, a person is denied a choice about whether he or she wishes to live a life of celebrity.

4. Privacy allows freedom from self-censorship and anticipatory conformity and allows people to explore their “rough draft” ideas.—This benefit, the one most frequently discussed in the literature of librarianship, receives a great deal of attention in other literatures, as well. Here the panopticon prison serves as a useful metaphor. A prison designed by Jeremy Bentham but never built, the panopticon was to have a central tower from which a guard could watch every cell arranged around the tower. The panopticon was designed to be a “self-monitoring” system as the inmates came to assume continuous surveillance or would be continually uncertain about when they were being watched and would adjust their behavior accordingly. Unlike the old dungeon, whose purpose was punishment, the panopticon was designed to foster rehabilitation, transformation, and the normalizing of behavior [33, pp. 22–23].

Gavison says privacy in one’s actions “prevents interference, pressures to conform, ridicule, punishment, unfavorable decisions, and other forms of hostile reaction” and “functions to promote liberty of action” [16, p. 448]. John Gilliom claims surveillance works as tool to produce compliance through fear, but that it is also a creative force in that “under its power, we will almost inevitably succumb to the normalizing process which denies

us any chance for truly autonomous existence” [34, pp. 130–31]. Edward Bloustein, Charles Fried, and Jeffrey Reiman also talk about the chilling effect on speech and action that occurs when people believe they are or may be under scrutiny and may be subject to punishment or denial of benefits and opportunities [27, 29, 32]. Gavison notes that privacy affords individuals the opportunity to express unpopular views first to a group of like-minded people and that “after a period of germination, such individuals may be more willing to declare their unpopular view in public” [16, p. 450].

In addition to warning of lost liberty, many of the above writers express concern about the resulting merger of the individual with the mass and the diminishment of people as unique, autonomous individuals with human dignity. Reiman speaks of the risk of psychopolitical metamorphosis: “The risk . . . is not that we shall lose something that we now enjoy but that we shall become something different than we currently are, something less noble, less interesting, less worthy of respect” [27, p. 206]. He highlights the widely recognized correlation between privacy and adulthood and suggests that “the deprivation of privacy stunts maturity and keeps people suspended in a childish state” [27, p. 207]. Oscar Gandy agrees that privacy is linked to autonomy, an individual’s freedom to determine how to respond to options and challenges: “The extent to which an individual conforms to the expectations of others is the extent to which she or he has given up some autonomy” [33, p. 180]. When it is unclear who is watching and what their interests or standards are, people will constrain themselves and avoid questionable or out-of-fashion behaviors. He argues that individuality is realized through experimental self-discovery, which requires space free from evaluation and risk.

5. Privacy helps prevent sorting of people into categories that can lead to lost opportunities and deeper inequalities.—Many scholars are concerned that the gathering of data about individuals and the sorting of people into categories can lead to lost opportunities, deeper inequalities, destabilized political action, and victimization by error, oversimplification, and decontextualization. Using the panopticon metaphor, Gandy discusses what he calls the “panoptic sort,” a “discriminatory process that sorts individuals on the basis of their estimated value or worth” and “reaches into every aspect of individuals’ lives in their roles as citizens, employees, and consumers” [33, p. 1]. Gandy claims the panoptic sort is a defensive technology more concerned with avoiding risk and loss than with realizing a gain [33, p. 17]. Such sorting has been facilitated by computer technology that has made it cost-effective to collect, store, and analyze data, and match it with other data sets.

Gandy is troubled by the fact that those in power use this information to predict future behavior of an individual not on the basis of the behavior

of that particular individual but rather on the more general basis of the past behavior of other individuals in the group or class to which the person has been assigned based on some attributes [33, p. 144]. Based on this sorting, individuals will be presented with limited options from which to choose, leading to an increased knowledge gap between the haves and the have-nots and a generalized lowering of the average level of public understanding [33, p. 2]. Reiman agrees that the panopticon is a more fitting metaphor than the fishbowl for this new threat to privacy, because the modern means of collecting information gathers various publicly observable activities that are dispersed over space and time and makes them visible from a single point [27, p. 196].

Many writers express concern about the way administrative systems for collecting data about people must necessarily oversimplify the nature of individuals and communities. James Scott says “a human community is surely far too complicated and variable to easily yield its secrets to bureaucratic formulae” [35, p. 23], yet when governments collect standardized records and documents, the information in these records easily becomes the only information to be considered by the state. “An error in such a document can have far more power—and for far longer—than can an unreported truth,” he says [35, p. 83].

Social scientist Perri 6 identifies several problems related to this data collection, aggregation, and sorting. Data-matching algorithms generate large numbers of both false positives and false negatives, and when used as a basic tool in decision making, mistakes and misidentification can lead to specific injustices [36, p. 23]. It also can lead to group injustice, as companies (especially insurance and retail) use data to make investment decisions and choose store locations to avoid “down-market” consumers and areas.

As an example, Perri 6 notes the “food deserts” in some inner-city neighborhoods, where no supermarkets are prepared to invest. He argues that the contemporary information technologies have put an end to the crude redlining of the 1950s and 1960s, in which banks would not grant mortgages in some areas, and replaced it with more sophisticated ways to size up a given person and individually tailor interest rates, amounts of coverage, and the premiums that are presented. This “meritocracy” may be more fair from an actuarial point of view, but Perri 6 questions whether we want such an unforgiving and rigid meritocracy [36, p. 31]. He observes that “those who are both articulate and confident in their abilities to correct mistakes, who can go elsewhere if they are dissatisfied (therefore, those who mainly use private rather than public services), and who represent sufficient value to organisations providing these services that it is in those organisations’ interests to retain their custom, and who have links to others in their position, are much more likely to frame privacy issues as matters

of inconvenience" [36, pp. 22–23]. Other people are likely to frame privacy risks they face in dealing with authorities in terms of "indignity."

Susanne Lace shares the view that groups that are valuable to companies may receive special deals while others receive less information and inferior service, "so even if information does not create inequalities in the first place, it can reinforce or deepen them" [37, p. 5]. She, too, acknowledges that this may be "fair" from an actuarial perspective but says society must weigh the value to society of benefits given to a small group of beneficiaries against the scale of potential costs falling on others who will not have access to a range of basic services [38, p. 223].

6. *Privacy prevents being misjudged out of context.*—Gandy says the panoptic sort victimizes because it takes information out of context. "Status is divorced from circumstance," he says, so assessment of individuals will always be incomplete [33, p. 18]. For example, someone making a hiring decision and trying to minimize risk might access a worker's compensation file or a credit report and see simply that a claim was filed or a payment was late. They will see no information that assures them the claim was legitimate or that lateness of payment was justifiable. Gilliom, in discussing the surveillance of welfare recipients, observes that with the advent of computer systems, caseworkers are unable to account for extenuating circumstances of their clients and are powerless to change the record-keeping system to allow for a more complete, accurate picture of the life circumstances of their clients [34, pp. 97–99].

Richard Wasserstrom finds it troubling that confidential information supplied for one transaction may be revealed to others for whom the information was not intended and suggests that information can get distorted and misused through storage, transmission, and drawing of incorrect inferences [31]. Jeffrey Rosen identifies a related problem that occurs when individual's situation changes: "Someone who trades the property rights in his online purchases to a drugstore when he is healthy would have no way of recovering his privacy once he is diagnosed with an embarrassing disease" [39, pp. 181–82]. Solove suggests that in this regard, Franz Kafka's *The Trial* is a better metaphor than George Orwell's *Nineteen Eighty-Four* for the problems created by the collection and use of personal data. *The Trial* "depicts a bureaucracy with inscrutable purposes that uses people's information to make important decisions about them, yet denies the people the ability to participate in how their information is used" [21, p. 10].

Rosen writes about gossip and suggests that "the privacy of the backstage protects us from the unfairness of being misjudged by strangers who do not have time to put our informal speech and conduct into a broader context" [39, p. 12]. He suggests that the new form of gossip published

in cyberspace is substantively different from the older form of gossip among neighbors. Personal information about people published on the Internet is often exchanged by people who do not know each other or the subject of the gossip and therefore lacks the restraint that comes with face-to-face communication [39, p. 189]. Such gossip, he says, is more widely broadcast, more easily misinterpreted, more permanent, and more difficult to answer than traditional gossip, because its potential audience is anonymous and without bounds. It resurrects “all of the stifling intimacy of a traditional society without the redeeming promise of being judged in context” [39, p. 205].

7. Privacy provides a physical space in which an individual can control the artifacts that support the narrative of her/his life.—Iris Young observes that much of the theoretical discussion of privacy focuses on the cognitive and mental aspects, emphasizing information, mental states, decisions, and relationships, and failing to notice sufficiently the material bases of privacy [40, p. 180]. She says that theories of privacy seem to take for granted the importance of personal space, but for many people, such as the elderly in nursing homes, private space is not guaranteed. This is a problem, she says, because in modern societies, an important aspect of the value of privacy is the ability to have a dwelling space to which one can control access and live surrounded by records and artifacts that have factual and expressive meaning and help support the story of one’s life. She claims that “a dwelling where we reside comes to exist in our image, but we, the residents, also take on certain of its properties. How we *are*, our bodily being, reflects how we reside in built places” [40, p. 172].

8. Privacy preserves the chance to make a fresh start.—Viktor Mayer-Schonberger [41] and Perri 6 [36] note that the commitment of vast amounts of information to digital memory, along with the end of the need to dispose of older data for reasons of space, have made it less likely that people and organizations will forget (and forgive) past behavior. Mayer-Schonberger says that “with our capacity to remember, we are able to compare, to learn, and to experience time as change. Equally important is our ability to forget, to unburden ourselves from the shackles of our past, and to live in the present” [41, p. 196]. For all of human history, remembering has been difficult and costly, and humans had to choose deliberately what to remember. Therefore, the default was to forget. In the digital age, however, the opposite is becoming true, as “committing information to digital memory has become the default, and forgetting the exception” [41, p. 196].

This significant societal shift concerns Mayer-Schonberger because digital memories create a temporal rather than simply a spatial version of the panopticon and transfer power from the surveilled to the surveyors. Also,

digital remembering may make it more difficult to accept that humans change over time, keeps people tied permanently to an increasingly irrelevant past, and undermines society's ability to forgive its members and remain open to change [41, p. 197]. Gandy notes that corporations can dissolve and form anew and wonders why persons should not have the same right to be forgotten and to make a fresh start by destroying personal information [33, p. 225]. Wasserstrom also proposes that there is value in creating a society where certain kinds of derogatory information about individuals are allowed to disappear after a period of time—where there is the possibility of change, self-renewal, and a fresh start. He says “a society that is concerned to encourage persons to believe in the possibility of genuine individual redemption and that is concerned not to make the process of redemption unduly onerous or interminable might, therefore, actively discourage the development of institutions that impose permanent marks of disapprobation upon any of the individuals in the society” [31, p. 160].

Benefits to Personal Relationships

9. *Privacy allows individuals to be authentic and to play appropriate roles in various contexts.*—Some writers have claimed that personal privacy does a disservice to society and to individuals. Richard Posner argued that by granting legal protection to personal information and allowing secrecy, society helps people to conceal “legitimately discrediting or deceiving facts” that should be revealed, and for this reason, he believes that “from the economic standpoint, private business information should in general be accorded greater legal protection than personal information” [42, p. 25]. David Brin, in his book *The Transparent Society*, says that surveillance is here to stay, and that rather than resist it, we should focus on making sure that average citizens as well as the powerful all have access to the tools of surveillance [43]. Wasserstrom says that one reason we do not disclose things is because it would be embarrassing if certain parties knew. He presents the counter-culture theory that people have made themselves more vulnerable than they need to be by accepting the idea that they ought to feel ashamed or embarrassed about certain thoughts and actions. This theory suggests that “when we realize that everyone has fantasies, desires, worries about all sorts of supposedly terrible, wicked, and shameful things, we ought to see that they really are not things to be ashamed of at all” because we are not unique [31, p. 163].

Rosen responds to this view by claiming that those who defend transparency are confusing secrecy with privacy, when secrecy is but one small dimension of privacy. He says “even those who claim that society would be better off if people were less embarrassed about discussing their sexual activities in public still manage to feel annoyed and invaded when they

are solicited by telemarketers during dinner” [39, p. 210]. Rosen also observes that defenders of transparency seem to hold a simplistic view of human personality as unitary and integrated—that people use social masks to misrepresent the “true” self. He and many others do not accept this. Schoeman says “roles are not the masks of personality but the very medium within which personality is attributable to people. Privacy from this perspective supplies the condition for the expression and fulfillment of different dimensions of self, all of which may be equally real” [44, p. 410]. One is being neither schizophrenic nor deceptive when he or she operates with different values and sensitivities in these various roles. He says these diverse facets of personality are not inauthentic personae that some true central self puts forward; rather these selves together are the person, and that “privacy may provide the contexts in which various facets of personality can develop” [44, p. 410].

As summarized below, Gavison, Robert Murphy, James Rachels, Rosen, and Schoeman [16, 39, 44, 45, 46] all discuss the importance of various roles and the freedom to behave in different ways and share different parts of the self depending on the context and relationship—whether it be with a close friend, a student, a family member, or one’s dry cleaner. Schoeman and Gavison further suggest it is vitally important to some relationships (e.g., lawyer/client, doctor/patient, teacher/student) that some emotional distance be maintained through privacy so that objectivity of judgment can be maintained.

Gavison responds to Posner’s concern that people want privacy in order to manipulate and cheat by observing that we always give only partial descriptions of ourselves, and everyone expects that to be the case. The question is who should do the “editing,” and she asserts it should be the individual concerned [16, p. 454]. Rachels concurs, arguing that varying behavior with different people is not accidental; it is in part what defines different social relationships. This is why privacy is valuable in ordinary situations in which individuals have nothing to hide: “If we cannot control who has access to us, sometimes including and sometimes excluding various people, then we cannot control the patterns of behavior we need to adopt (this is one reason why privacy is an aspect of liberty) or the kinds of relations with other people that we will have” [46, p. 331].

When privacy supports a person’s ability to play a role or behave in different ways depending on context, he or she has more flexibility and freedom in his or her interactions. To illustrate, Fried says “a reproof administered out of the hearing of third persons may be an act of kindness, but if administered in public it becomes cruel and degrading.” Thus, he notes, “if a man cannot be sure that third persons are not listening—if his privacy is not secure—he is denied the freedom to do what he regards as an act of kindness” [29, p. 483]. Murphy explains that “reserve” in the

playing of a role is essential for interaction. People provide each other with enough “cues” so that the interaction may continue, but they withhold sufficient information so that the course of action cannot be fully predicted. This gives people flexibility in navigating their interactions and, by decreasing the show of emotional attachment to the means and the end of action, prevents them becoming trapped into commitment [45, p. 1259]. One of the aspects that disturbs Gandy about the “panoptic sort” is that it gathers data and creates an inflexible profile of a person, denying people the freedom to make shifts between their operational selves depending on the context or situation [33, p. 180].

10. Privacy supports intimacy and the building of relationships.—A number of writers have examined the value of privacy in building and managing intimate relationships. Rosen writes that “in order to flourish, the intimate relationships on which true knowledge of another person depends need space as well as time: sanctuaries from the gaze of the crowd in which slow mutual self-disclosure is possible” [39, p. 8]. Relationships shielded by privacy give people the opportunity to share confidences and test ideas and intuitions against the responses of those they trust. If they were to fear that these “rough draft” ideas would be exposed to public scrutiny, they would be unlikely to share them [39, p. 216]. Taking a different view, Schoeman observes that when a person shares with others, he or she often is not supplying them with information that could prove detrimental if publicly revealed. Rather, he suggests that what makes information private and intimate is that the information matters deeply to the person revealing it, and he or she trusts that the person to whom it was revealed will treat it as important, too [44, p. 406].

Fried claims that respect, love, friendship, and trust require privacy or the possibility of privacy for their existence [29, p. 484]. According to Fried, intimacy is the sharing of information selectively, in a context in which one has the right not to share with everyone or with anyone. It is privacy that confers this right and creates “the moral capital which we spend in friendship and love” [29, p. 484]. The restraints of privacy apply among friends, too, enabling people to control degrees of intimacy and friendship that fall short of love. Monitoring of people is problematic because it deprives people of the exclusivity of their sharing and makes it impossible to give the gift of intimacy.

Reiman acknowledges that Fried’s argument is compelling, but he finds it troubling, too. He questions the notion that intimacy is based on exclusivity and scarcity. Rather, he proposes that it is the context of caring that makes the sharing of personal information significant, not merely the fact that information is withheld from others. The revealing of personal information deepens, invites, and nurtures the caring that powers the inti-

macy. Taking this view, there is no necessary limit to the number of persons one can be intimate with. What matters is finding people who do not just want to collect data but who care about each other and want to share experiences [17].

Inness, too, challenges Fried's view, observing that if sharing information were the sole and necessary condition for intimacy, people might have closer relationships with their doctors or car mechanics than with their friends. She agrees, however, that Fried provides a promising starting point—that "intimate information *does* seem to be somehow constitutive of close relationships" [30, p. 82]. She proposes that intimacy is linked to love, liking, and care, and that "privacy is valuable because it acknowledges our respect for persons as autonomous beings with the capacity to love, care and like—in other words, persons with the potential to freely develop close relationships" [30, p. 95].

Schwartz offers an additional perspective, emphasizing the value of privacy and leave-taking within relationships. He claims that periodic withdrawal into privacy is a means of preserving relationships and avoiding conflict, saying "after a certain point the presence of others becomes irritating and leave taking, which is a mutual agreement to part company, is no less a binding agent than the ritual of meeting" [23, p. 742].

Benefits to Society

11. *Privacy supports the common good.*—The communitarian perspective articulated by writers including Amitai Etzioni [47] claims that privacy is an individual concern that must be balanced against the common good. A number of writers address this view. Anita Allen argues that privacy concerns are often about the common good [48, pp. 30–31]. As an example, she says the privacy of individual medical records is good for the public health if it means people with diseases are more likely to seek help earlier. She also acknowledges the feminist critique, which equates traditional ideas of privacy with "barriers to escaping domestic confinement, traditional roles, and violence" [48, pp. 34–35], but she says this view of privacy is too limiting. She argues that the longing for personal, quiet time and personal decision making remains, and she suggests that feminists should not reject the broad principles that undergird privacy rights but rather work to redraw the lines between public and private. Beate Rossler offers a similar argument, suggesting that feminists who renounce the separation of private and public spheres risk losing the necessary sphere of privacy free from state interference, an aspect that "could protect the home and the family in a gender-neutral manner" [49, p. 60].

Solove recognizes and affirms the work of other scholars who have noted that privacy problems extend beyond harms to particular individuals, can affect the nature of society, and can "impede individual activities that con-

tribute to the greater social good" [20, p. 488]. He observes that the distinction typically made between individual rights and societal good is somewhat artificial. To illustrate, he says that security is usually thought to be a societal interest, but it is essential for individual autonomy, too. On the other hand, a society without privacy protection and some degree of freedom from the intrusiveness of others would be suffocating and likely not a place in which most would want to live. According to Solove, these examples show that privacy "is not an external restraint on society but is in fact an internal dimension of society" [21, p. 15]. Privacy has a social value, because while it protects the individual, it does so for the sake of society. Solove also observes that breeches of confidentiality involve violations of trust, not only individual emotional distress, and he claims that "there is a strong social value in ensuring that promises are kept" [21, p. 21].

Gavison suggests that although individuals today enjoy more privacy in some areas, it may simply be due to the fact that no one is interested in them. Should someone become interested, it has become quite easy to take privacy away. She argues that although most people are unlikely to experience this, they have an obligation to protect those who do, just as people should be concerned about the rights of criminal suspects even if they have not been exposed to police brutality themselves, and regardless of whether or not they may be exposed in the future. She says that "more generally, we want to be part of a society that is committed to minimizing violations of due process" [16, p. 469].

12. Privacy protects from power imbalance between individuals and government/organizations.—Klaus Lenk claims that privacy issues have been too hastily stated in purely individualist terms in order to make them more manageable. He observes that "civil rights, freedom of expression, the possibility of taking part in political discussions free from fear of negative reactions, are some of the fields where a changed information balance may produce adverse impacts" [50, p. 288], and he predicts that information technology will contribute not only to the centralization of social control but also to its intensification. In his discussion of the centralization of information management and resources through computers, Lenk says the real issue at stake is not personal privacy but the power gains of bureaucracies at the expense of individuals and of the nonorganized sectors of society. According to Patricia Ewick and Susan Silbey, new shifts in power—which are technical, faceless, and individuated—defy the possibility of revolt or collective resistance [51, p. 188].

Gilliom concurs, observing that "in the media's rush to quote a privacy advocate on the latest loss to privacy, we hardly ever hear about what must be one of the most important issues of all: the ongoing shifts of power

and domination inherent in the tooling and retooling of surveillance programs" [34, p. 128]. Gilliom, who studied the U.S. welfare system, observes that the welfare bureaucracy demands complete disclosure from its clients yet cloaks itself in massive obfuscation so that no one really knows the rules about how they can and cannot be treated [34, p. 87]. He finds it telling that the government's proudest surveillance programs are aimed at finding fraud rather than in finding hungry children, needy families, or unmet health need [34, p. 128].

Gandy notes that "the power that the individual is able to exercise over the organization when she withholds personal information is almost always insignificant in comparison with the power brought to bear when the organization chooses to withhold goods or services unless the information is provided" [33, p. 19]. In this way, individuals are usually "contract term takers" with little real choice about whether to give personal information, and people with little economic power have less choice than those with more. In addition, the transaction costs to the individual of protecting his or her privacy are very high; it is virtually impossible for the individual to "negotiate" with the huge number of people/organizations who could invade his or her privacy. For these reasons, Gandy believes a "free market" approach to protecting privacy cannot work [33, p. 207]. Furthermore, individuals cannot imagine all the interests that will have access to their information nor the many various uses to which their information will be put. Therefore, the analysts engaged in surveillance operate behind a cloak of invisibility [33, p. 54].

Gandy calls classification a "technology of control . . . an activity that is linked intimately with the exercise of power" and observes that "differences not measured, for all intents and purposes, are differences that do not exist" [33, pp. 82–83]. In his analysis of modern statecraft and the importance of information gathering, Scott notes that the state may use the power it gains from making society "legible" for good or ill. For example, the Nazis used maps to identify concentrations of Jews in order to deport them; such maps could also be used for a good purpose, like feeding them [35, p. 78].

Benn acknowledges that the usual arguments against surveillance are based on the possibility that a tyrannical government or powerful organizations may use information for blackmail or victimization. But he offers another reason to be concerned. He says that people resent being watched because it makes them feel like objects or specimens and not "as subjects with sensibilities, ends, and aspirations of their own, morally responsible for their own decisions, and capable, as mere specimens are not, of reciprocal relations with the observer" [28, p. 6]. Such resentments suggest a possible ground for a *prima facie* claim not to be watched in the way one watches a thing or an animal, "for this is to 'take liberties,' to act impudently, to show less than a proper regard for human dignity" [28, p. 7]. Bloustein expresses a similar idea: "A man whose

home may be entered at the will of another, whose conversation may be overheard at the will of another, whose marital and familial intimacies may be overseen at the will of another, is less of a man, has less human dignity, on that account" [32, pp. 973–74].

Solove also discusses concerns about due process and power imbalances related to surveillance and data gathering/mining. He emphasizes that the issue is not whether individuals have something to hide; rather the issue is about the way people are treated by the government and institutions. Data aggregation also means that government can glean disparate, innocuous bits of information that individuals do not care to conceal and combine them to create a profile that people might want to conceal. These problems, Solove says, are different than those created by surveillance. They often do not result in inhibition or chilling, but they affect the power relationship between people and institutions and create a sense of helplessness and powerlessness [21].

13. Privacy supports democracy, political activity, and service.—As discussed earlier, many writers have noted that surveillance and lack of privacy can have a chilling effect on free speech, free association, and other First Amendments rights that are essential for democracy. Solove notes that the chilling effect likely affects only a small number of individuals—probably those engaging in particularly unpopular speech. But he contends that it is valuable to protect against such chilling not simply because of its harm to those particular individuals. He says chilling effects also harm by reducing the number and variety of viewpoints expressed and the degree of freedom people have to engage in political activity [21, p. 17]. For example, even individuals who had no desire to become outspoken or engaged in the civil rights movement might agree that it is a good thing for leaders such as Martin Luther King Jr. to have the ability to speak freely.

14. Privacy provides space in society for disagreement.—Gavison and Rosen describe the value in preserving privacy and private spaces in which people can conduct activities and hold viewpoints about which there are varying views or a lack of consensus about the desirability of certain norms and expectations. Rosen says “privacy protects a space for negotiating legitimately different views of the good life, freeing people from the constant burden of justifying their differences” [39, p. 24]. To illustrate, he explains that people’s views about consensual sexual behavior are highly and legitimately varied, and reasonable people can disagree. Privacy means those views do not have to undergo public scrutiny and people are not forced to justify their choices.

Similarly, Gavison says privacy relieves tensions between personal preferences and societal norms. She observes that some societal norms for

behavior are of minimal benefit to society but difficult to change. Privacy can prevent the destruction of the lives of people condemned by such norms and thereby contributes to a more tolerant, pluralistic society [16, p. 455].

Conclusion

This relatively brief dip into the vast sea of literature on privacy has identified scholars in many disciplines who have given consideration to the meaning and value of privacy, including anthropologists, legal scholars, philosophers, political scientists, psychologists, and sociologists. The review has shown that the term “privacy” is difficult to define and perhaps best used as an umbrella term to describe a web of related concepts and that while specific behaviors vary from one society to another, the need for individual and group privacy is present across cultures.

Scholars in other disciplines share librarians’ concern about the “chilling effect” on inquiry and expression that results from loss of privacy, and they identify many other ways that privacy matters to the individual. These ways include protecting from the overreach of social interaction; affirming self-ownership, moral agency, and freedom of choice; preventing victimization of people through categorization and being misjudged out of context; and allowing an individual to make a fresh start. Importantly, these scholars also argue that privacy has value not just for individuals but for the building and maintaining of relationships and the support of a more just, democratic, and tolerant society. Librarians may find this broader understanding of the value of privacy to society useful in affirming and defending their commitment to the privacy of library users, even as individuals may claim not to care about their own privacy.

Appendix

Disciplines of Authors Cited

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Alfino, Mark	Philosophy
Allen, Anita L.	Law and philosophy
Benn, Stanley I.	Political science and philosophy
Bloustein, Edward J.	Law
Brandeis, Louis D.	Law
Brin, David	Philosophy
Etzioni, Amitai	Sociology
Ewick, Patricia	Sociology
Fried, Charles	Law

Gandy, Oscar H.	Public affairs communication
Gavison, Ruth	Legal philosophy
Gillion, John	Political science
Goffman, Erving	Sociology
Inness, Julie C.	Philosophy
Lace, Susanne	Law
Lenk, Klaus	Philosophy
Mayer-Schonberger, Viktor	Law
Mayes, Randolph	Philosophy
Murphy, Robert F.	Anthropology
Nucci, Larry	Educational psychology
Posner, Richard A.	Law
Prosser, William L.	Law
Rachels, James	Philosophy
Reiman, Jeffrey H.	Philosophy
Rosen, Jeffrey	Law
Rossler, Beate	Philosophy
Schoeman, Ferdinand	Philosophy
Schwartz, Barry	Sociology
Scott, James	Anthropology and political science
Silbey, Susan S.	Sociology and anthropology
Solove, Daniel J.	Law
Thomson, Judith Jarvis	Philosophy
Warren, Samuel D.	Law
Wasserstrom, Richard A.	Philosophy
Westin, Alan	Law
Young, Iris Marion	Political science

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