

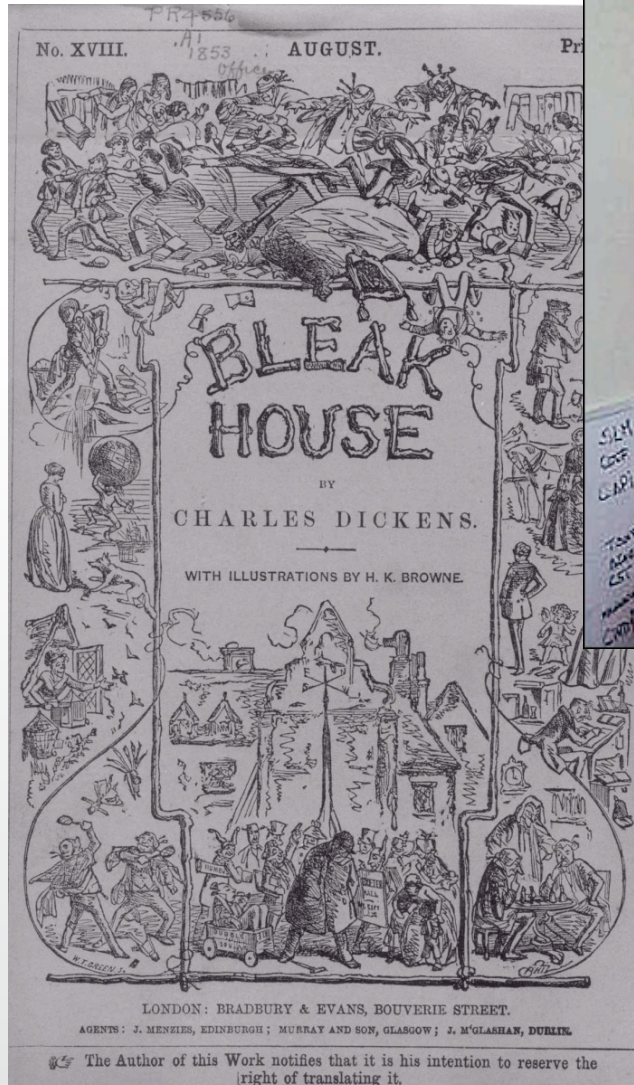
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Politics and Privacy.

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Privacy From Dickens to Darwin



The End of Practical Obscurity

- Longevity
- Ease of copying & transfer
- Accuracy of copying & transfer
- Effective search
- Power of amalgamated databases
- Difficulties of suppression
- Fluidity of identity/anonymity
- Lack of centralisation of veridical representations
- Few arenas for well-publicised error correction
- Difficulty in identifying breaches
- Difficulties of tracing
- Comprehensiveness
- Pervasiveness
- Independence of medium
- Compact
- Attracts subterranean behaviour
- ... doubtless many more ...
 - Compare paper to all these
 - Compare memory
 - Compare gossip

Everyone is Someone's Background



Who Cares/Why Care?

- Protection of freedom
- Respect for persons
 - Personal space
- Autonomy (informed, uncoerced freedom)
 - Control
 - Reflection (a life of projects)
 - Authenticity
 - Expectations of others' views of me
- I need to control access to:
 - My person
 - My decisions
 - Information about me

Rights and Preferences

- Is privacy a right or a preference?
- Right = entitlement
- Preference = appears high up in ranked list of choices
- I have a right to life and a preference for champagne
- Rights are inalienable (cannot be given away)
 - I cannot swap a right for a right to champagne

Rights to Privacy

- European Convention on Human Rights (incorporated into British Law)
 - **Article 8 – Right to respect for private and family life**
 - 1. Everyone has the right to respect for his private and family life, his home and his correspondence.
 - 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
- US Constitution, 1st & 4th amendments – Warren & Brandeis 1890
 - Four specific torts (Prosser 1960)
 1. appropriating the plaintiff's identity for the defendant's benefit
 2. placing the plaintiff in a false light in the public eye
 3. publicly disclosing private facts about the plaintiff
 4. unreasonably intruding upon the seclusion of solitude of the plaintiff

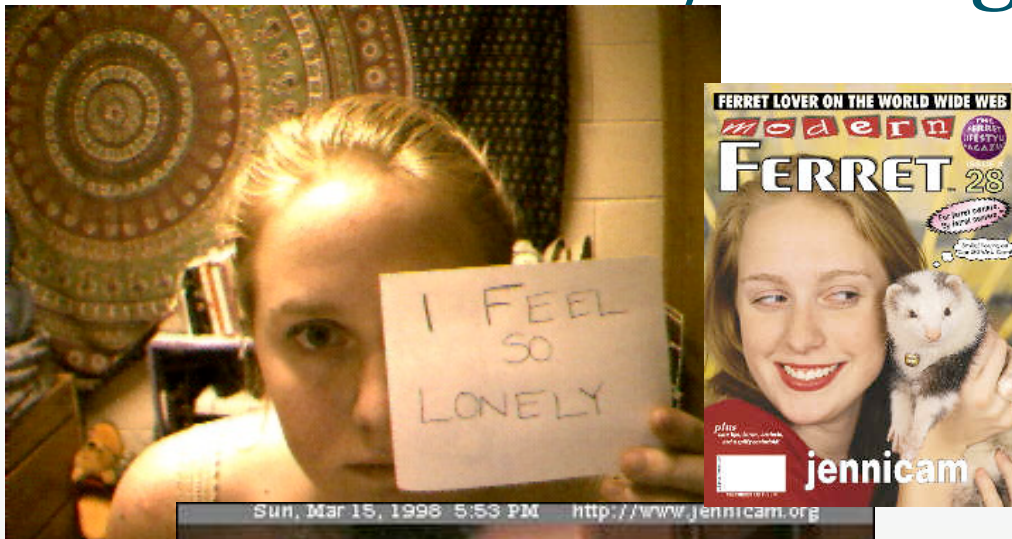
Common Law v Civil Law

- Common Law – made up by judges as we go along
- Civil Law – conformity to rules specified in advance
- In a common law system, we need rough rules of thumb
 - Reasonable expectations of privacy
 - Responsive to injuries
 - Google power
- In a civil law system, we define the rules in advance
 - May end up irrelevant
 - Can appoint a regulator before injuries

Accountability

- Policy Aware Web
 - Weitzner et al, <http://www.w3.org/2004/09/Policy-Aware-Web-acl.pdf>
 - <http://www.policyawareweb.org/>
- Use Semantic Web technology
 - Rule-based policy management system
 - Exchange rules and proofs on the SW

Reasonable Expectations – Exhibitionism/Lifelogging



Generational Issues

- The young are keen consumers and generally unconcerned
 - Palfrey & Gasser, *Born Digital*
- Uninterested in informational privacy
- Will attitudes change?
 - What will be the effects on identity?
 - What will be the effects on biography/reputation?
- Lack of awareness
- Ignorance among potential teachers
- What is legitimate in a democracy?

Privacy Rights Deniers

- Feminist argument (MacKinnon)
- Communitarian argument (Etzioni)
- Security argument
- Efficiency argument
- Apathy/market argument

Sousveillance

Steve Mann's "wearable computer" and "reality mediator" inventions of the 1970s have evolved into what looks like ordinary eyeglasses.



- Trad view of privacy: set up walls to prevent information flow
- “Privacy” protects the powerful against the weak
 - Everyone wants to increase their own privacy
 - Everyone wants to decrease that of others
 - Enforcing rights to privacy is a rich man’s game
- The truly liberal solution is to watch the watchers
 - Make information as open to everyone as possible

Privacy Laws v Data Protection

- Information flow is extremely valuable
 - Security
 - Efficiency
 - Scientific research
 - Community rights to the benefits
- Rights to freedom of information
- Data protection seeks to balance rights of the individual and the community
 - Directive 95/46/EC

Directive 95/46/EC

- Regulates the processing of personal data by a controller
 - Data relating to a person identifiable from the data
 - Identifiable by whom?
- Personal data should not be processed unless the processing is:
 - Transparent (including consent)
 - Legitimate
 - Proportionate
- In practice enforcement is hard

Conclusions

- Privacy is hard to define and hard to protect
- Current legal approaches try to balance individual and community rights
- Current practical approaches
 - Google model
 - Consent model
 - Accountability model
- Consumerism and apathy

Readings

- Beate Rössler, *The Value of Privacy*
 - Liberal defence of the right to privacy
- Amitai Etzioni, *The Limits of Privacy*
 - Communitarian attack on individual rights to privacy
- Adam D. Moore (ed.), *Information Ethics*
 - Collection of classic papers including Warren & Brandeis 1890
- Simson Garfinkel, *Database Nation*
 - Early warning of trouble
- David Brin, *The Transparent Society*
 - Defence of the radical idea of sousveillance
- Kieron O'Hara & Nigel Shadbolt, *The Spy in the Coffee Machine*
 - Review of various technologies and their effects on privacy