

General articles

Privacy in the context of new communication systems

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Abstract

Today's trend is to do as much as possible electronically. The result is that nearly everything is, and remains, recorded. It is the view of many that a lack of privacy is not a problem, because they have the attitude 'I don't mind people knowing because I have done nothing wrong and have nothing to hide.' But this very attitude constitutes a great danger. That attitude opens the way to create a totally transparent person deprived of any right to personal and financial privacy.

'I tweet, therefore I am'

The primary duty of a trustee is to protect a family's assets and values in a comprehensive way. As the word states, a trustee receives trust from his clients and has to deliver corresponding services. Long-term wealth should be used properly, but in a discreet way. Discretion is, therefore, an important part of a trustee's work. Discretion includes protecting private matters. In the case of a trustee, maintaining the financial privacy of families is important. We must not forget that privacy is a human right. Privacy has nothing to do with illegal actions or unethical activities. New technologies allow the public, or other interested, indiscreet, or scandal-mongering parties, to receive and disseminate information. Trustees have to bear this in mind.

Today's trend is to do as much as possible electronically. What does that mean? Well, under the pretext of greater efficiency, more and more work is done and communication is sent via electronic means. Email has replaced not only personal letters, but also face-to-face contact and telephone conversations. Communication nowadays is less personal, more standardized and, probably, also more superficial. The result is that nearly everything is, and remains, recorded. Governments and authorities tend to like this trend as standardized communication and recording procedures facilitate control and deliver insight into the way people act and proceed. This makes things easier to control. Some businesses support this trend as it both provides them with extended access to data and might even help to channel demand and create more protected markets for their products and services. In this way, consumers are dependent on systems and electronic communication thus starts to dominate everyday life. Social media are a new form of communication. They empower everyone to communicate whatever is occurring to them to a large audience. This certainly helps to provide a plurality of opinions but the sheer volume of social media information makes it difficult to assess its relevance.

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The importance of privacy

Every individual has the right to protect his or her private life. The same goes for the next larger social entity, the family. It is important to remember that the personal responsibility of individuals and the functioning families are the backbone of any healthy society. Too much intrusion into the life of individuals and families by society destroys the responsibility of individuals and the functioning of families and, as a result, will damage society. A right to privacy—including privacy in legitimate financial matters—has to be preserved to protect individuals and families.

Effects of electronic communication

Social media offer everyone the opportunity to have a public profile. Any message can be spread to the public via Facebook and Twitter and the information remains stored there indefinitely. A desire to have a profile can serve a purpose, but it can also backfire. It could reveal private areas of one's personal life to the public, making more and more information about one's private sphere accessible to all. This is exacerbated by the fact that people are not restricted to providing information about themselves, but they can also give details about anyone else. There are no checks.

The fact that so much information is readily available and accessible, leads others to believe that what they read is factually true and accurate and that they have a right to all information. A further danger lies in the fact that in the view of many that lack of privacy is not a problem because they have the attitude, 'I don't mind people knowing because I have done nothing wrong and have nothing to hide.' That attitude paves the way to create a totally transparent person deprived of any right to personal privacy.

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There is another impact that trustees particularly should bear in mind for their own operation: the belief that efficiency is improved by elaborate electronic communication could be misleading. Emails are an ideal tool to push a problem from one person to the next. We see in daily business that issues, which could have easily been resolved in five minutes through face-to-face contact or a telephone call, can and in fact now do give rise to lengthy dialogues via email. And, to pass on responsibility, an increasing number of people is copied in. This wastes time by increasing the time spent on a specific issue, sometimes even up to 10 or 20 times.

Emails and other forms of electronic communication can be helpful, but at the same time they can also be a curse when the expected increase in efficiency is not as great as expected. It is even worse, if they reduce efficiency and water down responsibility while allowing an unnecessary dissemination of private and other information.

Information is power

It is easy to use electronic systems such as computers, tablets, and smartphones. Business and government administrators are always asking for more data from customers to provide, as they say, a better service. But these administrators, from all avenues of our daily lives, are thereby gaining increasing access to all aspects of people's private lives—mostly through the fiscal system. Anyone can easily follow someone else's activities and habits via credit card systems.

Information is power. Total information can lead to total power. Administrations which claim a right to information can control every aspect of someone's life. This opens opportunities for misuse and can lead to totalitarian administrations. Already in 1944 Austrian economist and philosopher Karl Friedrich von Hayek in his book *Road to Serfdom* raised his concerns about individual freedom as governments become more powerful. He was particularly concerned about people becoming more dependent on governments and the welfare system. Neither Hayek nor George Orwell in his novel *1984*, written in 1949,

at that time were aware of the power that the misuse of information technology and social media could give to governments.

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Information technology and social media generally promote the development of society and individual welfare. But, like any good achievement, they can be misused. That misuse can be two-fold, a misuse by third parties and in particular governments, by criminals and irresponsible businesses on one side and, and a misuse by individuals, misusing the new technologies and unnecessarily exposing their personal data, on the other.

There are new words such as *e-commerce*, *e-banking*, *e-finance*, *e-government*. They all have a tendency to give access to private data and to standardize the individual. The path from a name to a number, as used by the Soviets in the Gulag, can be very short. The Gulag was the system of Soviet labour camps to confine those who were not considered compatible with the system. These people were deprived of their individuality and were given a number. A lot of individualism and personality can be lost as demand for goods and services—including government services—becomes unified.

Today, calling a bank or government agency can be cumbersome if you do not have the direct number of a specific person to talk to. It involves long waiting times until you reach a physical person ready to listen to your needs. But how many times is this particular person then either unable or unwilling to listen to you? Service levels are dropping rapidly unless you ask a very common question. The system is destroying individualism which has always been the biggest driver of society, welfare, and innovation.

Consequences of an excessive control

Humanitarians and liberals would prefer individualism and humanitarian spirit to collective thinking. Free people need their private space and should be

able to develop ideas. Standardization stops progress and innovation, destroys individual freedom, and hampers privacy. Excessive control, as already applied today in many countries, is a product of fear. Political and social systems tend to be afraid of change. That is why they introduce more and more control. Of course, some control is necessary, such as the need for police to stop crime or the military to stop aggression from abroad. Intelligence on foreign areas is needed to have an early-warning system. But a confident as well as functioning democratic system, based on the rule of law, should not introduce total control of its own citizens. Unfortunately, new technology allows exactly that and governments use it.

The system of preserving all telecommunication data in Europe basically makes everyone a potential suspect. The European courts ruled that such data preservation is unconstitutional, but European governments and authorities want to change the legislation to reintroduce their controlling systems. They are misusing the fear of terrorist attacks as a pretext. Their purpose is to control citizens and it is only possible through these new electronic technologies.

The financial crisis cleared the way for supra-national institutions like the G20 (group forum of governments and central bank governors of the 20 major economies) and the OECD (Organisation for Economic Co-operation and Development) and for national governments to break into citizens' personal financial data. Governments are financially broke and this has been caused by the irresponsible political policies of political parties. A campaign was launched to give the impression that the main duty of a citizen is to pay taxes. Certainly, paying taxes is a duty because citizens receive services from government in return. But it is not a government's role to be oversized and to extract the maximum from taxation.

Unfortunately, Western societies have already arrived at this point. The result is that governments feel they have a right to access all financial data from their citizens and to control all transactions. The use of cash is now somehow perceived as suspicious. There is a terrible logic behind this: all bank transfers are recorded electronically, thereby giving

direct access to government agents, whereas cash transactions still remain private. A combination of e-government, e-commerce, and the abolition of cash will transform a free citizen into a controlled subject.

What to do or not do?

But how can individuals protect their own privacy and freedom? In this respect, what was said before needs to be emphasized: humanitarians and liberals would prefer individualism and humanitarian spirit to a collective and controlled society. Free people need private space to develop. They should not be limited in their thinking or actions, which is especially true and necessary in financial matters. Hence, how can individuals protect themselves against these dangers? First and foremost, special care should be taken how information technologies are used. Private data should not be included in emails and certainly never placed on media channels such as Facebook or Twitter where they can be spread without control. Any information on email remains stored there forever and can be accessed by anyone with the right knowledge at any time.

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Personalized services rather than standardized services are needed, especially in the financial and medical business. Abolishing cash would be a deep infringement of personal freedom and would lead to an increase in the black market and further criminalize a majority of the population. Constitutional rights to freedom and privacy embodied in legislation and regulation have to become a priority before further attempts to introduce more control under exaggerated pretexts such as preventing crime are made. For example, it can already be seen now that all control mechanisms against terrorism which in fact limit freedom are not preventing terrorist attacks.

Governments claim that there would have been more terror attacks if such control mechanisms—targeting not individual suspects but the whole population—had not been in place, sound unconvincing.

Promoters of civil rights should fight against data collection by authorities for two reasons: first, data protection is an illusion and secondly, too much information inevitably leads to abuse—by authorities and by illegitimate sources.

Conclusion

This whole development also aims to limit, nationalize, and redistribute private wealth. This is very dangerous for the economy, for innovation, and for society. Trustees have a very important role to play to protect the privacy of their clients. Once privacy and especially financial privacy is broken, the envy starts to take over and allows for laws and rules which serve additional and excessive redistribution. This is especially true when governments are hungry for extra funds as a result of their own mismanagement of funds. The term ‘in the interest of society’ is then misused for the appropriation of additional funds. We now even see that legal tax planning is being considered unethical. A witch-hunt is starting against private individuals and families as well as multinational corporations. It is astonishing that public mismanagement receives less blame for causing the problems than savings achieved through hard work and efficient business. As the public opinion and perception are misused and manipulated, it is crucial to maintain privacy wherever possible. The cover page of the latest issue of the *Society of Trust and Estate Practitioners* (STEP) Journal¹ raises the question: ‘The Age of Transparency: is client confidentiality dead?’ A trustee’s challenge will be to keep client confidentiality alive.

Professional structuring of assets and income can help protect privacy and preserve wealth. But this structuring has to be reinforced by proper services and applications, respecting pre-conditions to protect

1. STEP Journal 22(10) (December 2014/January 2015).

privacy and taking care when using email, in particular by avoiding to disclose unnecessary private detail. Client names should be used with great care in the electronic media and only then if such use is unavoidable.

We should avoid falling into the trap of redefining the private sphere. Private space is a human right which should not be open to interpretation or debate. If we want to preserve a free and liberal society we have to find a way to respect the private sphere again. Freedom needs privacy! Without privacy Hayek's road to serfdom would have been gone.

Free societies would have been transformed into controlled and standardized societies. New technologies, which should advance humanity, can be misused to transform free people into conformists.

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The conclusion is that we have to find a way back to respect people's private space.

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