

Protection of private life – a challenging exercise

Go to Conference 2015
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20 minutes

- Introduction
- Private life – a necessity
 - Habermas and the restructuring of the public / private
 - Not absolute
- Private life vs privacy. Balancing vs fencing
 - The ECtHR
- The challenges
 - Constant challenges
 - Upload etc by physical privates
 - The State. 1984
 - Commercial interests

Introduction

- I am a lawyer and a legal philosopher
- I am *not* a technicians nor an engineer
 - Technically impaired
- I am a techno-optimist
 - Human beings are brilliant at inventing technical devices
 - All of which carry potentials and menaces
 - Eg.: cars
 - A few of which ought to be outlawed
 - Eg.: land mines
- I hope to add a perspective

Private life – a necessity

- Jürgen Habermas (German philosopher and social scientist, 1929 -)
- The restructuring of the public sphere
 - In Europe, i.e. England, Germany and France
 - From late 17th century onwards
- Example: 3,000 cafés in London in 1700
 - Open for the public
 - With newspapers
 - And coffee – not alcoholic beverages

Private life – a necessity

- (→ Open deliberations among equals
 - “the unforced force of the better argument”)
- The emergent public sphere presupposes
- 1. A technical device
 - Gutenberg and printing
- 2. A private sphere
 - Reading *in camera*
 - Physically: Literature at home
 - Mentally: News – at home or at the café

Private life – a necessity

- In order to participate in the public sphere private life is necessary
 - Time to read and understand. Gather information. Focus
 - To develop views – even if provisionally
- Interdependence
 - Private life \leftrightarrow public sphere
 - Not only restructuring of the public sphere – also of the private sphere

Private life – a necessity

- The Amsterdam syndrome
 - (acc. to a tourist guide)
 - No curtains → nothing of interest, pure conformity
 - ≈ Glen Greenwald, *No Place to Hide*
 - Being watched people are more confined and cautious

Private life – not only a necessity

- ‘Private life’ *may* serve as a firewall protecting illegal activities
 - ranging from child abuse
 - to illegal economic activities
- →
- No absolute protection
 - Similar to e.g. freedom of expression and information
 - There are limits

Private life vs privacy

- European Convention on Human Rights
 - X vs Iceland 18 May 1976
 - (on the right to keep a dog)
 - Distinction:
 - Privacy:
 - Fencing in. "No trespassing. Private property"
 - Private life goes much further:
 - Develop relations with others
 - Develop personality
 - Personal autonomy

Private life – a necessity

- Not merely the right to be left alone
- But the right to develop as an individual
 - Do stupid things; try out wild ideas etc
- In order to be able to participate in the social life

- Hypothesis re China: Any connection between less private life and less innovation but a lot of copying?

The challenges

- Constant challenges
- It is not new that private life challenged
 - Letter reading, wiretapping etc.
- The particular challenges are – to some extent – new
 - Due to technical inventions
 - The Amsterdam syndrome looming?

The challenges

- 1. Private uploading
- The internet – and especially social media – as a semi-public sphere
 - E.g. Uploading of pics and flics previously very private
 - Drawing back the Amsterdam curtains?
 - Or bringing personal experiences to the café for common contemplation and even consideration?

The challenges

- Problems related to private uploading
- Rapidity
 - Thinking fast and slow (Daniel Kahnemann)
 - Fast and intuitive thinking is often mistaken
- For free
 - No need to be engaged
- Concentration and focus
 - A problem for the new generation?

The challenges

- 2. Big Brother's watching you
 - In the name of security
 - The executive branch of government often eager
- Technology runs both ways
 - Surveillance and privacy protection
- How to strike a balance between surveillance and private life
 - By law? By public opinion?

The challenges

- 3. Commercial interests
 - Privatizing the public
 - Any public space left?
 - Colonizing the life world
 - Habermas: power and money colonizing the free world of human life