

Nothing to Hide: Privacy in the 21st Century

By Mark R. Keeler, Ph.D.

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Micro-chips that track lost dogs. The Mobil Speedpass that allows customers to fill their gas tanks with the flash of a keychain. GPS tracking systems and devices that give users the ability to access instant driving directions with the push of a button. The use of fingerprint and retinal screening for efficient security measures. High-tech surveillance systems that ensure the safety of citizens. Most of these developments are met by the open arms of consumers.

Although the information age has brought about many technological improvements that make daily life easier and less stressful, these advancements have not come without expense. While most people welcome new innovations and advances in technology, there is a dark side and hidden cost of such progress of which consumers are largely unaware. With these hidden costs lurking in the background, Mark R. Keeler, author of *Nothing to Hide: Privacy in the 21st Century*¹, gives a unique and complete analysis of nearly every dimension of privacy, from its earliest origins to its present-day effects, while at the same time illuminating privacy's evolution in connection with the social dimensions of humans and how the important progress of technologies have and will affect the populace on a daily basis.

With its infusion of the social elements of privacy, the overall method of Keeler's book is very comprehensive and takes a different approach than most other books on privacy. A brief

¹ MARK R. KEELER, NOTHING TO HIDE: PRIVACY IN THE 21ST CENTURY (2006).

look at why he named his book *Nothing To Hide* sheds light on his views of the social dimension of privacy. Keeler points out that the question “What do you have to hide?” symbolizes a cultural shift in society, which he believes no longer places an adequate value on privacy or liberties. Like the employer who requests a drug test; if an employee refuses, the question raised is more often “why won’t you take the test, is it because you are hiding something,” rather than the (often overlooked question) “is it because you don’t want to surrender your privacy?” He poses the “nothing to hide” doctrine as one which is nothing more than a form of “social intimidation,” which presents an appalling Hobson’s choice to agree to answer the question and surrender your own autonomy, or to disagree and infer you have something to hide. Keeler puts forward this supposition with the emphasis that it is important for the individual responding to the question to ask what the motives of the “interrogator” are, how and why the answer will be used for or against them, and who will have access to the answer.

Because privacy embodies much more than the right to be autonomous, the right to being left alone by telemarketers, or the right to find safety from the outside world in one’s home, Keeler suggests that privacy is better understood as an indicator of “social health or lack thereof.” If the “nothing to hide” mentality becomes convention and is left unchecked, it will reach a point where it will apply to the innocent as much it does the guilty. With these theories laid out, Keeler takes his reader on a journey of many technological advances and their current and potential effects on privacy.

At the start of the book, Keeler lays a historical background of privacy and how it has evolved and is still evolving, while relating it with the social dimensions of human nature. The first two sections provide a solid introduction and backdrop for the more scientific and technical-based sections throughout the rest of the book. From the creation of the Internet to artificial

intelligence, data mining, medical privacy, biometrics, and government surveillance, Keeler illustrates to his readers that privacy concerns are lurking in the background ubiquitously in everyday life, even though there is very little media coverage of the scientific progress being made. All in all, Keeler uses his experience to provide a fairly easy read in which he ties together the social framework of privacy, illuminating not only the negative effects but the virtuous and essential effects of scientific advances. He brings his readers on a journey of how individual autonomy is, could be, and will be affected in our highly technological world which progresses daily.

Keeler begins his book describing the foundations of privacy, and explains to his readers that privacy not only has to keep up with technological changes, but must also compete with continually changing social values and attitudes. The effect of external forces such as the economy and government policies must also be taken into consideration. Consequently, the subject of privacy requires a broad multi-disciplinary approach, which requires one to be aware of the technical aspects of technology while also keeping in perspective the driving forces behind the technological advances and the sociological effects of such advancements. Although privacy is not a new concept, and often adapts to the social climate, Keeler describes how people have struggled over its meaning for centuries, and the disagreement continues to this day.

Before moving into the technical aspects of technological progress and tools, Keeler illustrates to his readers that the social dimension of privacy is more than just dealing with micro-chips, computers, and DNA. Describing the regularity of gossip at the workplace and among the community, he suggests that invasions of privacy start with your “neighbors.” In this sense everyone is different, and different people have separate conceptions of privacy. To

strengthen this conception, Keeler introduces various social paradoxes² which define human behavior and show how the conception of privacy is constantly evolving in step with social values and technological change. He describes how cultural shifts have even changed the nature of gossip, which he maintains has been a significant and beneficial component of cultural development and communication. For example, in the past gossip originated as a method of gathering important information about food, shelter, and one's health, but in today's world gossip is looked upon with disapproval in some contexts.

Establishing the social aspects of privacy allows the reader to understand how the line is drawn between progress which has many societal benefits and that which infringes upon the autonomy of individuals. In most instances, the same technological tools which can save lives and help society, can be used at the expense of one's privacy, and drawing the line is a difficult task, considering that the underlying ethical question is whether the ends justify the means. For every individual this answer will usually be different. The remainder of Keeler's book is very technical and provides a thorough analysis of technological progress. By acknowledging the significance of social dimensions, the book provides the reader with the essential tools for determining where they stand on the protection of privacy in relation to different technological advancements.

Because a short description of every technological advancement Keeler presents would be unable to give each topic justice, I will illustrate a few important subjects he touches on. One important new technology is the creation of Radio Frequency Identification or RFID chips, devices that can be as small as a grain of rice that are capable of transmitting information about

² *Id.* at 11-15. One example of the social paradoxes Keeler puts forth is important to understand his perception of human behavior and how it plays a role in defining privacy. "Most of us claim to cherish our privacy and view it as a fundamental human right. And yet many of us will wantonly disregard our privacy in pursuit of material gain." He typifies this circumstance as a popup ad where a consumer gives up a little privacy to get something "free."

the object it is attached to. Although Keeler points out beneficial uses of RFID chips, such as security passes, payment systems, or inventory control, privacy concerns have arisen with the plausibility of the chips tracking people rather than items. Even though Keeler suggests in some instances using these chips to track a missing child or keep track of low risk criminals would be advantageous to society, such abilities must be controlled. He points out that the prison population could be dramatically reduced with the used of RFID cards, which would allow for the release of non-violent offenders. A tracking device which costs \$6 dollars as opposed to \$60 a day per inmate is a win-win situation for the community and the prison system. Although there are obvious favorable uses of RFID cards, Keeler does not hesitate to point out that although there is the capacity for beneficial results, there is also the capability for greater harm, as individuals could eventually be tracked without their knowledge or consent. For this reason, he argues a regulatory scheme is vital to protect the fundamental right of privacy.

Biometrics and genetic testing are also included in the many intriguing topics Keeler confronts. Although these topics are diverse, they both deal with physical autonomy and the right an individual has over his or her body. Genetic testing at the expense of an individual's autonomy is a very real concern, as eugenics has had a certain history in our country. Keeler imagines the risk of employers or insurance companies denying employment or coverage on the basis of a genetic trait. He describes the Human Genome project as the most assaultive attack on human dignity and privacy in our history, but he also sees the indispensable gains that are achievable through the development of new drugs and treatments that would be a result of genetic engineering and testing

Over the past couple years new biometric technologies have arisen enabling identification of an individual through physical traits; height, weight, eye color, skull geometry, palm

geometry, thermal imaging, DNA matching, and facial recognition. These technologies also enable identification through the recognition of behavioral attributes: voice, keystroke dynamics, signature analysis, and other forms of physical movement such as how you walk down the street. Keeler argues that with the acceptance and use of biometric technology, our country and other nations around the world have brought societies close to, if not already, a “surveillance state.” Keeler describes these methods of identification as an invasive search of the human body, and to capture measurements of differing traits of individuals constitutes a fundamental violation of a person’s civil liberties. He suggests that biometrics must be brought out into the public eye for scrutiny. Although there is good reason to accept the use of biometrics in prisons, nuclear power plants and other high security places such as airports, human oversight is necessary to ensure there are adequate checks in place. In order to guarantee that there is a valid regulatory approach implemented to protect an individual’s fundamental right to privacy in places where there is not a diminished expectation of privacy, people must be educated about these specific scientific techniques and how they are used.

Throughout Keeler’s book he does a first-rate job of presenting new technologies and exemplifying how they can be beneficial to society while having a negative impact on the liberties and freedoms of individuals. Because these advancements are in their beginning stages, he urges the public to be aware of these issues and to scrutinize how technology will affect the fundamental right of privacy. It is not his intention to illustrate the potential dangers of technology as an ultimate evil, but he believes that awareness of how these infringements may occur is the first step to protecting the autonomy of individuals.
