The Importance of Privacy
Confusion about the Civil Right of the Twenty-First Century

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Column – April 23, 2010

'Privacy is dead. Get over it.' [1]

One of the most interesting aspects of privacy is that it remains a burning issue around the world, even though it has already been declared dead a number of times. The debate on the penchant of governments and businesses to collect personal information, along with the introduction of more and more new technologies, attracts broad public interest in the Netherlands as well. Unfortunately, it is still not clear what the debate actually revolves around. The fact of the matter is, a great deal of confusion exists about what privacy really means. This confusion sometimes makes us forget what privacy has to offer as an ideal – also, and perhaps especially, for people in the twenty-first century.

In academic circles, theorists agree that it is a hopeless task to define privacy unequivocally. Privacy, so goes the conclusion, can better be seen as a hodgepodge of related values in different contexts. [2] For instance, privacy safeguards physical integrity, control over personal information, the inviolability of the home and the confidentiality of communications. In turn, these principles can be based on the fundamental principle of the autonomy of the individual at the personal, intellectual and social levels.

Of course, the way in which the general public understands privacy is also important for the protection of privacy. The current public debate revolves in particular around the concept of 'informational' privacy. The focus is on everyone's right to have control over information referring to themselves. What is striking here is that privacy is usually understood to mean the extent to which information is divulged to others, instead of the amount of control over the sharing and use of this information. Privacy in the pubic debate stands for personal and confidential. Valuing privacy goes together with taking active measures to keep information about yourself hidden.

When privacy is understood in this light, it's not surprising that it has been declared dead many times. The amount of information divulged to others has increased immensely as a consequence of technology, new media and changing social notions. Information technology makes data recordable, controllable and usable at an unprecedented scale. The low threshold of the new media makes everybody in the Netherlands a potential celebrity. And fortunately, it is no longer a matter of course for people to keep secret about certain aspects of their personal identity, such as a non-heterosexual nature, on the grounds of a social taboo.

Understanding privacy as the extent to which information about yourself is revealed to others not only leads to tossing privacy into the wastebasket when it comes to concepts that are past their shelf life, it also leads to a subjectifying of the importance ascribed to privacy. In a constant stream of research and reports in the media, the importance of

privacy is analysed in terms of how much people actually still value 'their' privacy. The Internet and social networks are pre-eminently suited for answering this question in negative terms. After all, so goes the reasoning, the mass use of social networks like Facebook and its Dutch equivalent, Hyves, is in itself already sufficient evidence to conclude that the importance of privacy has declined. Indeed, the 'Big Brother Award' that Bits of Freedom bestowed upon Dutch citizens in 2007 was interpreted by many people as a hint to use social networks. [3] A call to assess privacy at its true value as a basic freedom and social principle was thus reduced to a call for confidentiality.

But the importance of privacy cannot be answered with the question of how people make use of 'their' right to privacy. Privacy gives people the right to choose what personal information they divulge and what they do not. After this data has been handed over to others, privacy also guarantees that it is used carefully and that people have a say in its use. And privacy as a civil right in principle offers people the freedom to make these choices without the prevailing social view on the correct use of this freedom being the deciding factor. Privacy is even a fundamental prerequisite for social diversity. It offers people the freedom to be, think and act differently without having to be afraid that this will have negative consequences on their social or financial position. The luxury of the feeling of having 'nothing to hide' is nothing more than that, a luxury. This relative luxury does not alter the fact that others might be vulnerable who are worth protecting.

It is quite possible that an inadequate protection of privacy has led to people being laconic about that right. The Dutch research project 'Nothing to hide and still afraid' indicates a general feeling of resignation among the Dutch population about the processing of their personal information. [4] Considering the value that personal information has acquired for the business world and the government in recent decades, it is hard to see this as anything other than an indication that the present right to 'informational' privacy apparently has little to offer Dutch citizens.

Yet privacy as a civil right and social ideal is more relevant than ever. The challenge is to make the protection of privacy effective. Divulging and sharing information is a condition for social participation in the highly individualized information society of the twenty-first century. Information technology enables the government and businesses to profile citizens and consumers, and to make strategic decisions at the individualized level. Privacy can continue to guarantee our control over how these processes are set up, for example by further sharpening the right to have access to our personal data and the right to information about how this data is used. This can ensure that people remain central in a society tied together by databases.

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Footnotes

1. For example, see: Pete Cashmore, 'Privacy is dead, and social media hold smoking gun.' CNN.com, 28 October 2009, edition.cnn.com.
2. For this conclusion and a good summary of the discussion, see: Daniel J. Solove, ***Understanding Privacy*** (Cambridge, MA: Harvard University Press, 2008).
3. See: 'Winner Dutch Big Brother Awards 2007: "You"', 26 September 2009, Bits of Freedom, www.bigbrotherawards.nl.
4. See: Regional Plan, 'Niets te verbergen en toch bang. Nederlandse burgers over het gebruik van hun gegevens in de glazen samenleving'. Final report, January 2009, Amsterdam, www.cbpweb.nl.

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Media Society, Privacy

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