

Libraries, Electronic Resources, and Privacy: The Case for Positive Intellectual Freedom

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Abstract: Public and research libraries have long provided resources in electronic formats, and the tension between providing electronic resources and patron privacy is widely recognized. But assessing trade-offs between privacy and access to electronic resources remains difficult. One reason is a conceptual problem regarding intellectual freedom. Traditionally, the LIS literature has plausibly understood privacy as a facet of intellectual freedom. However, while certain types of electronic resource use may diminish patron privacy, thereby diminishing intellectual freedom, the opportunities created by such resources also appear liberty-enhancing. Adjudicating between privacy loss and enhanced opportunities on intellectual freedom grounds must therefore provide an account of intellectual freedom capable of addressing both privacy and opportunity. I will argue that intellectual freedom is a form of *positive* freedom, where a person's freedom is a function of the quality of her agency. Using this view as the lodestar, I articulate several principles for assessing adoption of electronic resources and privacy protections.

I. Introduction

Public and research libraries have long been providing an increasing proportion of resources in electronic formats, including Internet access generally, electronic databases, electronic journals, and electronic books. This move toward electronic resources can diminish patron privacy. For example, libraries often contract for electronic resources with vendors who offer customized services to users (e.g., the ability to create personal profiles, store articles, and record search histories). These services allow the vendors to collect and store patron information, even though library policies often preclude such collection (Magi 2010). Another example is electronic book lending via Amazon's Kindle service. Borrowing books via Kindle requires registering for a Kindle

account, logging in to that account, and allowing Amazon to track one's borrowing. That also allows Amazon to combine information about borrowing with information it has garnered from Kindle book purchases and other transactions with Amazon. Libraries wishing to lend books in Kindle format can at most provide a warning to patrons about Amazon's privacy policies.

The tension between the provision of electronic resources and patron privacy is widely recognized in the Library and Information Studies (LIS) literature. But a consensus regarding how to assess trade-offs between patron privacy and access to electronic resources remains elusive (Litwin 2006; Corrado 2000; Parry 2012). One reason is that there is a conceptual problem regarding the nature of intellectual freedom.

The gist of the issue is this: Traditionally, the LIS literature and the library profession have, very plausibly, understood patron privacy as a facet of intellectual freedom (ALA 2010, 305-319; Bowers 2006). And while electronic resource use, coupled with policies regarding that use, may diminish patron privacy, thereby diminishing intellectual freedom, the opportunities created by such resources also appear liberty-enhancing. Any attempt to adjudicate between privacy loss and enhanced opportunities on intellectual freedom grounds must therefore provide an account of intellectual freedom capable of addressing both privacy and opportunity. That is my task here. After describing several current practices in library provision of electronic resources, I explain why several of the most important philosophical conceptions of freedom fail to provide a plausible account of intellectual freedom. I then offer a different view, according to which intellectual freedom is best understood as a form of *positive* freedom, where a person's intellectual freedom is a function of the quality of her agency within a certain domain. Using quality of a person's agency as the lodestar, I set forth several principles for assessing the provision of electronic resources, privacy protections, and the trade-offs between them.

The contribution of the essay is several-fold. It addresses the tension between electronic resource use and patron privacy. More fundamentally, though, it addresses a difficulty in conceptualizing a key LIS principle: intellectual freedom. In attempting to provide an adequate conception, the paper draws on the rich philosophical literature on freedom. Hence, it links the LIS scholarly and professional literature to work outside the discipline.¹

II. Three Issues

Three issues regarding library provision of electronic resources serve as a starting point. The first is library contracts with electronic resource vendors who offer customized services (e.g., the ability to create personal profiles, store articles, and record search histories). In a study of vendors of electronic resources to libraries, Magi (2010) has described a number of services by which such vendors may collect personal information from library patrons. For example, vendors may allow users to save searches to an individual profile, save preferences for search interfaces, send results to others via email with the user's account, and so forth (Magi 2010, 256–57). Moreover, vendor privacy policies are highly varied and not always consistent with library and information technology industry standards (Magi 2010, 263–67).

The second issue regards lending of e-books through third parties which in turn collect patron information, for example via Amazon's Kindle service. Although libraries have provided access to electronic books for some time, in 2011 libraries in the U.S. began entering into agreements to provide patrons access to electronic books via Amazon's Kindle service. That allows patrons to read books on Kindle devices and other devices (phones, tablets, laptops) with Kindle software. Borrowing books from libraries via Kindle requires registering for a Kindle account, logging in to that account, and allowing Amazon to track one's borrowing. Moreover, because many folks borrowing books via Kindle already have Kindles or Kindle-enabled devices, they already have purchased books for their devices from Amazon. Many of these people also buy other products from Amazon. Because the borrowing of Kindle books is associated with one's Kindle account, which is also associated with the rest of one's account with Amazon, the books one borrows via Kindle are associated with lots more information attached to one's identity (e.g., notes added, how much the person has read) (Goldberg 2011). In turn, Amazon can combine information gleaned via Kindle borrowing with other information it has collected or purchased and use it for both commercial purposes (e.g., enhancing Amazon's understanding of consumer behavior) and for purposes that may benefit readers (e.g., facilitating reading recommendations).

Hence, when one borrows a book in Kindle format from her library, her privacy regarding her reading and other aspects of her life diminish. Recognizing that this diminution of privacy makes Kindle borrowing different from other types of book borrowing, some libraries

issue a warning to patrons borrowing Kindle books that the library privacy policies do not necessarily apply. See figures 1 and 2.

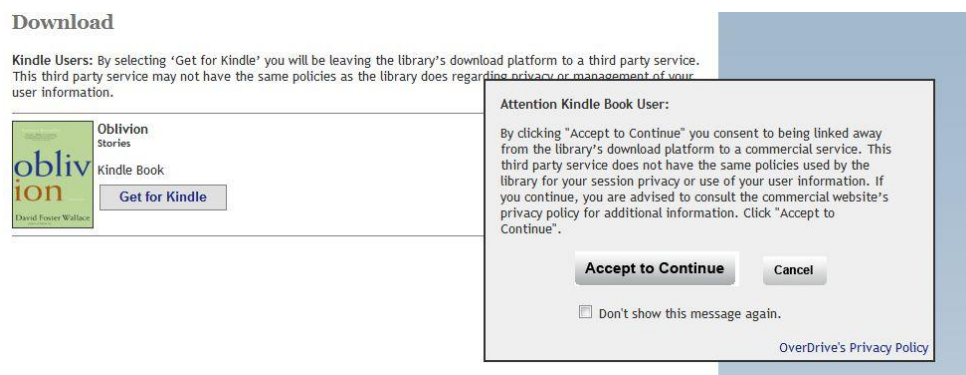


Figure 1

After the patron is warned that she is leaving the public library domain, and indicates agreement to do so, she is directed to Amazon's Kindle site, where she can borrow the e-book. Because the patron must be logged in under an existing Kindle account, information about the borrowing is correlated with that account. See figure 2.



Figure 2

But the privacy issue is just part of the story. Electronic books in general, and Kindle books in particular, have become an important part of reading, and many library patrons would like them to become a larger part of their library borrowing. A recent study published by the Pew Research Center found that, as of 2011, the OverDrive Media Console (a platform for lending electronic resources, including e-books) had been installed on 11 million devices (with 5 million installs coming in 2011 alone) (Pew Research Center 2012b, 11). And there is significant interest in learning how to use and borrow e-books among people who don't yet do so. Despite the growth in e-book reading and borrowing, interest in borrowing e-books, and number of OverDrive installations, there is unrealized potential for library patrons to read e-books. The percentage of library patrons who borrow e-books is small and there are several ways in which patrons are frustrated when they do attempt to borrow e-books. They report long waits for titles, having titles available only in formats that are incompatible with the patron's reading device, and lack of library access to desired titles (Pew Research Center 2012b, 12, 52).

The modest use and frustrations of e-book borrowing in libraries stands in contrast to the more significant penetration of electronic books in the commercial sphere (Pew Research Center 2012a). This may help explain why there are tensions between libraries and publishers (Pew Research Center 2012b, 12, 61). This is made all the more salient in light of a more recent study released finding e-book and e-reader use rates in 2012 were substantially higher than in previous years, while paper book reading declined slightly (Pew Research Center 2013). Moreover, the better-developed commercial side of e-books actually aids library patrons seeking content to read electronically. Many patrons, for example, use Amazon's site to find recommended titles and then request those titles from their local libraries (Pew Research Center 2012b, 58).

The e-book issue in many ways parallels a third aspect of electronic resource use—the move toward electronic journals, in particular for scholarly publications. University and research libraries have been providing electronic access to journals for some time, and access to those journals is generally made pursuant to licensing contracts. Those contracts may have provisions requiring libraries to monitor user activity to detect unauthorized use, cooperate in investigations into unauthorized use, and notify publishers of any unauthorized use. Commentators have noted that such provisions create potential privacy issues for patrons (Lipinski 2013, 452; Harris 2009, 69). Moreover, because publishers providing access to

electronic journals are generally not subject to state library privacy laws, they may be able to gather and share information about patrons more extensively than libraries could (Lipinski 2013, 453).

III. Intellectual Freedom and Privacy

So, access to information in electronic formats is important to people generally, and to library patrons specifically. Yet, in at least some cases the access that patrons would like requires sharing personal information about reading habits and intellectual interests with third parties—which is to say it requires giving up privacy in those regards. Because privacy protection has long been considered an aspect of intellectual freedom in the LIS literature, it would appear that such privacy losses conflict with intellectual freedom. In order to assess such potential conflict it is crucial to delve a bit deeper into the connection between electronic resources, privacy, and intellectual freedom.

Here it is important to be explicit about the nature and structure of my argument, which can be summarized as follows. First, intellectual freedom is important, and it is something that libraries and the library profession value greatly. This is both plausible and consistent with the LIS literature on intellectual freedom. Second, intellectual freedom provides the justification for privacy protections for library records. This claim is based on the professional and scholarly literature on privacy and reading. The American Library Association (ALA) and the International Federation of Library Associations and Institutions (IFLA) expressly link privacy to intellectual freedom. In a statement of support for intellectual freedom under the United Nations Universal Declaration of Human Rights, the IFLA states that “Library users shall have the right to personal privacy and anonymity. Librarians and other library staff shall not disclose the identity of users or the materials they use to a third party” (IFLA 1999). The ALA maintains that “rights of privacy are necessary for intellectual freedom and are fundamental to the ethics and practice of librarianship.” (ALA 2002; see also ALA 2010, 255-293). A number of legal and LIS scholars have likewise linked reading privacy to intellectual freedom (Magi 2011; Richards 2008; Bowers 2006; Blitz 2005; Cohen 2001).

But the precise link between intellectual freedom and privacy protections is unclear. How, in other words, must we understand intellectual freedom, if it is to provide a plausible ground for privacy protections? This is the basis for a third claim: for intellectual freedom to

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ground privacy protections, it must be understood as a type of positive freedom, specifically a *quality of agency*, such that a person is free only if she acts autonomously. And by extension, intellectual freedom is a quality of agency, such that a person is free within intellectual domains only if she acts autonomously within those domains. Explaining this third claim and its extension is the primary task of sections III and IV of the paper. In part V, I argue that because libraries value intellectual freedom, they have reasons to ensure that patrons act autonomously with respect to intellectual endeavors and provide a framework for assessing potentially privacy diminishing electronic resources in libraries.

What is Privacy?

Although privacy is a contested concept, for the purposes of this essay we can stipulate that privacy involves limited access by others to information about a person. That is, for a person (P) to have privacy regarding her reading habits (for example) with respect to some other person (Q) just means that Q has limited access to information about P's reading habits. On this view, *control* of one's information is neither necessary nor sufficient for one to have privacy. Moreover, this view does not assume that privacy only pertains to important or valuable information. One may have privacy regarding mundane information or information to which others have a claim. The type of information and others' claims to access will be relevant in determining whether one has a *right* to privacy and to whether privacy is valuable under specific circumstances, but not to whether one actually has privacy in a particular case (see Rubel, 2011; Allen, 1988; DeCew, 1995 for discussion of different conceptions of privacy). Note, though, that the arguments outlined here do not turn on the specific details of this account of privacy.

What is Intellectual Freedom?

Whether, and the degree to which, privacy loss implicates intellectual freedom will turn on the proper conception of freedom. There are a number of different ways in which we can conceive of freedom generally, and intellectual freedom specifically. However, in an article about the state of intellectual freedom in digital environments, Eliza Dresang notes that the ALA has never proffered a uniform definition of intellectual freedom, and offers a definition extrapolated from various ALA sources:

Intellectual freedom as a concept in librarianship means freedom to think or believe what one will, freedom to express one's thoughts and beliefs in unrestricted manners and means, and freedom to access information and ideas

regardless of the content or viewpoints of the author(s) or the age, background, or beliefs of the receiver (Dresang 2006, 169).

This definition is certainly consistent with ALA and IFLA documents on intellectual freedom. However, it highlights a deeper conceptual problem: it incorporates into the definition of ‘intellectual freedom’ the more basic concept of *freedom*. That is not to say the definition is unhelpful—it is useful in that it delimits the domains of intellectual freedom: thought, belief, expression, access to information. Nonetheless, to understand what constitutes a loss of freedom within that domain requires an account of freedom *simpliciter*. And just what freedom *simpliciter* means is at the core of the issue under consideration here. That is, addressing the conflict between privacy and electronic resource use in terms of intellectual freedom requires that we address the question of what sense of *freedom* operates in the conception of intellectual freedom.

In the following, I analyze several of the most prominent philosophical conceptions of freedom and argue that each has important limitations, either as a conception of freedom or as a conception of freedom that can underwrite privacy protections. I then argue for a different understanding.

Negative Freedom

In liberal political theory and moral philosophy the predominant conception of liberty is *negative* liberty, or the absence of external constraints on a person’s actions (Berlin 1969; Carter 2008). One’s negative freedom to (say) read a text would be limited by laws banning the text, laws prohibiting reading the text, and others’ physically blocking one from accessing the text (among other things). One’s negative freedom to read that text would not be limited by an inability to read the language the text is in, lack of resources to afford access to the text, or preoccupation with other matters.² There are some reasons that the negative conception is attractive as a basis for our understanding of intellectual freedom. One reason is that any liberal political theory will place some importance on negative freedom—coercive threats, legal threats, and physical constraints are on any plausible view restrictions of liberty. Another is that it provides an account of the importance of core aspects of intellectual freedom: book bans and internet filters, for example, place constraints on persons’ abilities to access information, and the negative account explains why they diminish intellectual freedom. Moreover, the language of professional library documents reflects a negative conception of liberty. The ALA, for

example, states that intellectual freedom consists in the ability to “seek and receive information from all points of view *without restriction*” (American Library Association 2010) (emphasis added).

However, defending privacy as a facet of intellectual freedom in this negative sense is incomplete. It can account for the effect on intellectual freedom in some cases of privacy loss, specifically those where privacy loss leads to harms to patrons or creates other external obstacles to their intellectual activities. However, it cannot explain why loss of privacy diminishes intellectual freedom in cases where no such harms or limits to intellectual activities result. That is because loss of privacy does not by itself constrain a person’s intellectual activities; one is not prevented from doing anything solely in virtue of information disclosure. Rather, for negative liberty to be affected by privacy loss, it must be due to some *further* impediment caused by the privacy loss—for example, by others denying a person some opportunity, material benefit, or other liberty. Absent such further constraints, privacy loss can only affect intellectual endeavors insofar as persons are affected by beliefs about their being observed—often referred to as “chilling” effects. Such effects are psychological limitations, even where they are utterly reasonable. But psychological limitations are not external constraints, and hence they do not implicate negative liberty; rather, they implicate a form of *positive* liberty, to which I turn next.

Internal Positive Freedom

In contrast to negative conceptions of liberty, positive conceptions concern the ability to act with a degree of control over one’s life or in accord with what one values even where there are not constraints imposed externally. One way to understand this sort of freedom is in terms of a person’s ability to act according to the desires of her *higher* or her *more rational* self (Carter 2008). Suppose, for example, that Ari has a desire to read *Infinite Jest*; he likes David Foster Wallace’s writing, owns a copy of the book, and genuinely enjoys reading. Moreover, he recognizes that reading the book will be good for him in that he will enjoy reading the book, enjoy discussing it with others, and appreciate how it makes him look at the world. However, Ari is obsessed (one might say addicted) to playing *Call of Duty*. He spends the majority of his waking hours playing, sneaks time playing while at work, loses sleep, and so forth. He recognizes that it is a problem, genuinely wants to do other things (especially read *Infinite Jest*), wishes he could tear himself away, disconnects his computer from the Internet for periods of time, and so

forth. But Ari always seems to find himself back in his gaming chair. There are no external constraints on Ari's ability to read *Infinite Jest*. No one prevents him. He would not consider the time spent away from *Call of Duty* to be a loss. Nonetheless, Ari wishes to read the book and wishes to read it instead of playing *Call of Duty*. That is, Ari's higher or more rational self would read *Infinite Jest*. Yet his obsession makes him unfree to do so.

For Ari to become free to read *Infinite Jest* does not require that barriers be removed, but for Ari to gain something positive—namely control over his desires. The thing to be gained is internal to the agent, and his gaining control would make him free insofar as it would allow him to act on his desire to read *Infinite Jest* by empowering him to eliminate the conflicting desire to play *Call of Duty* (Berlin 1969; Carter 2008). Call this “internal positive freedom.”

If we understand intellectual freedom as a kind of internal positive freedom, a person has intellectual freedom if and only if she is capable of acting according to her higher or more rational desires. This view is attractive for a couple of reasons. First, it can explain why effects upon a person's intellectual habits implicate intellectual freedom even where there are no harms to a person's other interests, well-being, opportunities, and so forth. This in turn provides an account as to why privacy loss can diminish intellectual freedom where that privacy loss affects one psychologically only. Put another way, the internal positive view explains why self-censorship due to others' monitoring one's reading can count as an impingement of freedom regardless of whether that monitoring leads to any distinct harms. In this respect the internal positive view comports with several accounts of the underlying justifications for privacy protections in the name of intellectual freedom, which posit that disclosure of information about reading or other intellectual habits will “chill” persons' activities (see, for example, Richards 2008; Blitz 2005; Cohen 1996).

Alas, despite its advantages, the account is unsatisfactory. The biggest liability is that on the internal positive view, shaping the desires of one's 'higher' self preserves one's freedom just as much as gaining the capacity to act in accord with one's previously-existing higher-order desires. So, for Ari to be internally positively free, which is to say for Ari to be able to act in accord with his higher or more rational desires and values, he could either forego playing *Call of Duty* (perhaps by ridding his house of gaming devices, canceling his Internet access, putting his money in an inaccessible place, and so forth) so that he can actually sit down and read *Infinite Jest*, or he could change his desires such that he only wishes to play *Call of Duty* (perhaps by

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being counseled or brainwashed into thinking *Call of Duty* is the most important thing he could ever do). If he comes to view *Infinite Jest* as unimportant, and to view *Call of Duty* as particularly important, Ari would be internally positively free, even if he is driven as if by addiction to play *Call of Duty* in any case. Surely, though, his inability to do otherwise renders Ari unfree.³

Another problem is that on the internal positive freedom view, lack of privacy might on balance actually enhance freedom. Suppose, for example, that many people wish to read better books, watch more highbrow movies, and browse more enlightening corners of the Web. However, each of us is drawn to pot-boilers, Hollywood blockbusters, and perezhilton.com, *despite the desire of our rational selves not to be*. The internal positive account would allow that persons' intellectual freedom could be increased where their reading, watching, and browsing habits are open for all to see: persons' internal constraints (i.e., their being drawn to material they would rather avoid) could be overcome by using the power of others' observation and disapproval to influence their behaviors for the better, on the criteria for "better" that the agents themselves would endorse. Note that this is a problem for the internal positive view only insofar as it weakens the link between intellectual freedom and privacy (contradicting the second premise of the main argument).

So, the internal positive account can explain privacy's relation to intellectual freedom in a way that the negative account cannot. However, like the negative account, the internal positive view is incomplete insofar as it would allow that changes to one's desires, even without control of one's actions, is freedom preserving and implies that lack of privacy could actually increase freedom.⁴

One Freedom

A number of commentators have rejected the distinction between negative freedom, or freedom from external constraints, and internal positive freedom, arguing instead that there is just one sense of freedom that accounts for both external and internal constraints (MacCallum 1967; Nelson 2005). On this type of view freedom is a three-part relation between an agent, an action the agent desires to take, and a constraint on that agent's ability to take the action. An agent is free insofar as certain possible constraints on her actions do not obtain. The advantages of this sort of view are important. Arbitrarily marking off some kinds of constraints as "external,"

and hence liberty-constraining, and others as “internal” and not relevantly liberty-constraining is oddly artificial, and the one freedom view avoids doing so. It also can accommodate the fact that many limitations to liberty involve a combination of internal and external constraints. So, the person who suffers penalties for her actions has her negative liberty impinged, and where that leads her to act reluctantly even where no further penalties would result, her positive liberty is impinged.

But the one freedom view is still not an adequate account of intellectual freedom. Most important is that, like the internal positive account, it must always interpret changes in one’s desires due to one’s inability to act according to antecedent desires as preserving liberty. Moreover, it cannot accommodate the possibility that desire *formation* can impinge liberty, an issue to which I turn in the following section.

So far I have explained why several of the predominant philosophical accounts of freedom are poor foundations for an account of intellectual freedom and fail to provide freedom-based grounds for privacy protections. One might argue that this is evidence that privacy is not a facet of freedom or intellectual freedom. That would require abandoning the attempt to ground protections for library patron privacy in intellectual freedom, which is one of the basic premises of this paper and a central tenet of LIS professional values. Fortunately there is another avenue.

IV. A Different Conception

Rather than understanding freedom (and hence intellectual freedom) as a function of constraints upon actions alone, we can understand it as a *quality of agency*, as argued extensively in Christman (2005) and Christman (1991). According to this view a person is free only if she acts autonomously. And hence, that person is intellectually free only if she engages in intellectual activities autonomously. To say that one acts autonomously or engages in intellectual activities autonomously is to say that those actions are in an important sense one’s own, based on one’s ability to self-govern, and in accord with one’s values to the extent that one sees fit. This view is compatible with the constraints-based views addressed above, insofar as constraints on one’s ability to act are limitations on one’s autonomy. It is also compatible with the internal positive freedom view insofar as constraints on one’s ability to act on one’s

higher-order interests—including psychological constraints—are limitations on one’s ability to act autonomously.

What is important about the autonomy view is that freedom demands more than the mere absence of constraints. To begin, it provides an account of how desire formation matters for freedom. Where a person’s character, values, and desires are formed without the ability to consider and reflect upon reasonable alternatives, it would seem that person’s freedom is diminished, and the autonomy view can explain why. Consider the case of a person raised in oppressive circumstances. Suppose that Ruby is raised in an insular community in which members of her social class are subservient, raised to have no aspirations beyond servitude, and provided no opportunities beyond servitude. Suppose also that Ruby fully internalizes those values and wants to live accordingly. If Ruby moves outside the community, to a place that protects equality across social classes, there would be no constraints on her ability to pursue options other than servitude. She is neither externally constrained from acting nor internally constrained from acting on higher or rational desires. Nonetheless, due to the depth of her indoctrination, Ruby may want nothing of the increased opportunity. It would seem that Ruby is unfree, despite the removal of constraints. Freedom-as-autonomy provides an explanation as to why. Ruby’s lack of freedom is a function of her upbringing, under which her desires, values, and character formed without ample opportunity to consider and reflect on reasonable alternatives (Christman 1991, 345). That is an affront to autonomy, not necessarily a constraint on desires or ability to act in accord with desires.

To further illustrate the relation between agency and desire formation, we can revisit the example of Ari’s desire to read *Infinite Jest*. We can imagine a case in which Ari changes his higher level desire from reading *Infinite Jest* to playing *Call of Duty* under unreasonable, external pressures. Perhaps the book is censored, and Ari’s employer threatens to fire anyone even rumored to read it. Certainly those count as external constraints (and, hence, limitations of negative intellectual freedom). But they also would conflict with Ari’s agency. The reason he changes his higher level interests is an unjustifiable form of pressure, which limited Ari’s ability to fully consider a reasonable alternative. That is, Ari’s ability to consider the reasonable alternative desire of reading *Infinite Jest* is saddled with inordinate, negative pressure, and that undermines Ari’s autonomy, even though Ari will eventually be able to act consistently with his actual preference of playing *Call of Duty*.

The autonomy view also provides an explanation of the *importance* of constraints. When constraints matter, the explanation for why they matter is not simply that they are constraints of any old sort. Rather, they matter because they impose limitations on things of value. The view offered here is based on the view that personal autonomy is important, and limitations on autonomy are at least *prima facie* morally bad.

This autonomy conception of freedom can explain how privacy loss can be freedom-impinging even where that loss is not accompanied by harms to one's interests. Autonomy, as noted, includes the ability to act according to one's reasons. The self-monitoring and potential self-censorship, or redirecting of one's intellectual activities, that may result from surveillance undermines the degree to which one's actions and intellectual endeavors are based on one's higher-level interests. Recall that the ability to account for such cases was a strength of the internal positive view. But there is an important difference: the internal positive view alone must allow that changes in desires are every bit as freedom-preserving as acting in accord with one's already-existing desires. The autonomy conception, in contrast, recognizes that desire-formation under pressure is an affront to autonomy, and hence an affront to liberty. Thus, where privacy loss affects one's actions with respect to reading, on the autonomy view that loss will be liberty-restricting regardless of whether one acts against one's actual desires or one changes those desires. To illustrate, consider a case in which a member of a disfavored religious or political minority has reason to believe that her library's records are scrutinized by others, and she worries that her normal choice of books will become known to others. She might decide against reading those books, despite her higher-level desire to do so; the internal, positive view would recognize this as a limitation of her intellectual freedom. But over time, having read lots of other stuff, she might lose the desire to read her previous choices and instead desire to read more socially palatable fare. The internal, positive view would not recognize this as a limitation on her freedom, but the autonomy view would. That, I believe, is an important advantage.

The autonomy view is also notable because it has an important corollary. It can explain why privacy loss impinges freedom in cases of *surreptitious* surveillance. Much privacy loss takes place without people being aware of it. But autonomy is about quality of agency—one's ability to act according to one's values as one sees fit. Where important information is unavailable or hidden, one's ability to act according to one's values is compromised. Moreover, where one is denied important facts about the world such that one is less able to make sense of it and one's

place in it, her autonomy is diminished (Hill 1984). Whether one is being surveilled is such information, and hence surreptitious surveillance is itself an affront to liberty, properly understood (Rubel 2007). And where that surreptitious surveillance is about one's intellectual habits, it is an affront to intellectual freedom.

The importance of the intellectual freedom as quality of agency view, and its relation to surreptitious surveillance, can be illustrated in a recent, well-known dispute regarding library privacy and surveillance. Section 215 of the USA Patriot Act allows the Federal Bureau of Investigation to order persons or entities to produce “any tangible things (including books, records, papers, documents, and other items) for an investigation to protect against international terrorism or clandestine intelligence activities.” Patriot Act § 215(a). In addition to providing such broad investigative power, the section prohibits people from *disclosing* that the FBI has sought items under the section. Patriot Act § 215(d). Libraries and librarians (among other privacy and civil liberties advocates) have been highly critical of the section, and it has been cited as an important intellectual freedom issue. One response is particularly interesting for our purposes here. In the wake of the Act's passage, some libraries proposed using signs saying “The FBI has not been here. (Watch closely for the removal of this sign)” (Penenberg, 2004). Why, though, should the nondisclosure provision be considered important from the standpoint of privacy and intellectual freedom, and how would revealing investigations advance intellectual freedom? It does nothing to actually protect privacy, and *disclosing* the investigation could cause the sorts of chilled inquiry that are contrary to positive intellectual freedom. The autonomy view provides an answer: disclosure provides people with important information about the state of their records, and they may use that information to better understand the world and act accordingly—regardless of whether they become subject to constraints.

In sum, other conceptions of freedom (and intellectual freedom) are either problematic in their own right or fail to provide a justification for privacy protections. However, understanding intellectual freedom as a quality of agency avoids the problems of other conceptions and can provide a ground for privacy protections. Hence, if intellectual freedom is to provide the justification for privacy protections, then intellectual freedom is a type of positive freedom, specifically a quality of agency, such that a person is free only if she acts autonomously. That is the third claim of the argument outlined at the start of this section. Combined with the premise that intellectual freedom does provide the justification for privacy

protections for library patrons, we can conclude that intellectual freedom must be understood as a quality of agency. What that implies in the context of library provision of electronic resources is the question for the following section.

V. What Intellectual Freedom as Autonomy Demands

One of the basic premises of my argument is that intellectual freedom is a fundamental library value. If libraries value intellectual freedom so greatly, then, assuming I am correct about the relationship between autonomy and intellectual freedom, it follows that libraries have reasons to ensure that patrons act autonomously with respect to intellectual endeavors. The idea behind this claim is straightforward: valuing something provides reasons for furthering that thing. That is simply part of what it means to value something.⁵ Coupled with the claim that intellectual freedom is important, and it is something that libraries and the library profession value greatly, the conclusion that libraries have reasons to ensure that patrons act autonomously with respect to intellectual endeavors follows.

Thus, the commitment of libraries and the library profession to intellectual freedom entails a commitment to patron autonomy. That in turn underwrites several things. First, and least controversially, it underwrites a requirement to provide information to patrons about the privacy implications of their use of electronic resources. It further underwrites a moral commitment to providing resources in electronic formats, even those with privacy-diminishing personalized services and Kindle-formatted electronic books. Such provision will occur in any case, but the commitment to intellectual freedom also implies that electronic resources ought to be provided *amid reasonable and attractive options* (often including hardcopy versions). Next, and most difficult to assess, a commitment to intellectual freedom underwrites a commitment to fostering in persons a sense of reading independent of observation. More controversially, it demands that contract terms for the provision of electronic resources be easily publicly accessible, and provides a reason for libraries to negotiate for contracts that minimize the degree to which services provided by third parties are privacy-limiting.

Information about Privacy Policies

As noted, autonomy refers to individuals' ability to self-govern, to make choices about matters that are important to them according to their values as they see fit. It is, in other words, the

ability to exercise control and self-determination, including the ability to make important decisions on the basis of one's commitments, values, and conception of the good. A baseline moral duty for anyone is respect for others' autonomy, which requires that one allow another person the opportunity to control certain matters for herself. As Thomas Hill Jr. states, "[r]especting individuals' autonomy means granting them at least the *opportunity* to make their crucial life-affecting choices in a rational manner" (Hill 1984, 48). That is true regardless of whether restricting a person's choices would be better for that person or would lead to an outcome that better comports with her values (Shiffrin 2000). Respect for autonomy provides the foundation for moral prohibitions against deception (at least in important matters and in substantial degrees) and coercion, as deception and coercion undermine one's self-government by circumventing her will. In the context of medical care, for example, respect for autonomy prohibits performing a procedure on a patient capable of giving meaningful, informed consent, but who has not given it, regardless of whether the procedure would benefit the patient.⁶ The mere fact that the patient would make a bad choice does not provide grounds to foreclose such a choice.

At a minimum, respect for autonomy requires making available, and in some cases providing, information necessary for a person to be able to make important decisions according her values, at least where one aims to induce that person to make the decision. In the commercial context, for example, deception about products or omission of important facts about products that consumers would expect to be provided is an affront to consumer autonomy. A number of scholars have examined the nature and role of persons' understanding of privacy policies and privacy implications of information technologies, including analyzing the relation between persons' understanding of privacy implications and their consent to the collection and use of their information (Strickland and Hunt 2005). However, whether gathering and use of personal information is the kind of thing for which one has a moral responsibility to obtain consent will depend on whether the gathering and use of personal information is important to the persons whose information is at issue.

In the electronic resources context, surely information about privacy policies regarding reading information is important enough that disclosure of vendor policies is required for respecting patron autonomy. This is for several reasons. First, there is ample evidence that people care about whether and how their reading information is gathered and used. Opinion

surveys indicate that members of the public consider privacy in the online context and in the library context to be very important (De Rosa et al. 2007, 3:34–36, 4:36–38; Johns and Lawson 2005, 491; Best, Krueger, and Ladewig 2006, 382–383). This is especially compelling insofar as there is evidence that many people are misinformed about reading privacy and how information is collected and analyzed. (Turow, Mulligan, and Hoofnagle 2007). Moreover, there is little cost to providing such information.

Further, popular support for reading privacy and privacy regarding media consumption is sufficient to enshrine at least some protections into law. Almost every state in the U.S. protects library patron information from third party access by statute (Chmara 2009, 42, 73–92). In 2011 the state of California went even further by passing a law protecting reading privacy generally. The Reader Privacy Act prohibits any “provider of a book service...from disclosing, or being compelled to disclose, any personal information relating to a user of a book service, subject to certain exceptions.” (California SB 602, preamble). Although federal law has no analogous statutory protections for reading privacy, the 1988 Video Privacy Protection Act prohibits disclosure of persons’ purchases and borrowing of videos (18 U.S.C. § 2710 (2002)). Further, there is both federal and state case law protecting information about persons’ reading privacy on free speech grounds. In *Stanley v. Georgia* the U.S. Supreme Court determined that although the state could legitimately criminalize the possession of obscene material, such statutes do not extend to persons’ homes. Rather, under the First Amendment the state has “no business telling a man...what books he may read or what films he may watch.” 394 U.S. 557, 565 (1969). In *Tattered Cover, Inc. v. The City of Thornton*, the Colorado Supreme Court determined that the First Amendment and free speech provisions in the Colorado constitution protect records of customer purchases in bookstore from state intrusion. 44 P.3d 1044 (Colo. 2002). The important point here is not to conduct an analysis of the legal protections for privacy in reading and intellectual habits. Rather, statutes and cases protecting privacy in reading and intellectual habits are evidence of the importance and popular support for such privacy. That, in turn, gives us reason to think that information regarding persons’ privacy in reading and intellectual habits is crucial in their exercising autonomy.

A further reason why information about vendor privacy policies is important for respecting patron autonomy is that whether persons have or lack privacy with respect to reading and intellectual activities may affect what they read and intellectually engage with. In

part III I argued against the view that effects of surveillance on reading and intellectual habits constitute a limitation on negative intellectual freedom. But that does not mean such effects are unimportant. Rather they are important because the fact (if it is a fact) that disclosure affects behavior is evidence that the disclosure matters to people. Because disclosure matters, it is autonomy-respecting to make it clear to people that such disclosure occurs. That is, things that are important enough to affect behavior are at least *prima facie* things that persons have an autonomy interest in knowing. Thus, if disclosure is something that is important enough to people that it affects behavior, it is at least *prima facie* something that they have an autonomy interest in knowing. Notice how this relates to surreptitious surveillance: if our concern is that persons' intellectual habits not be affected by observation (i.e., under a negative freedom or internal positive freedom view), surreptitious surveillance is every bit as liberty-preserving as non-surveillance. But if our concern is autonomy, then knowledge about surveillance is essential, independent of the effects of such knowledge on persons' intellectual habits.

Now, one can adduce evidence that in general people neither read privacy policies nor understand what the existence of a privacy policy actually implies (Hoofnagle and King, 2008). One might therefore argue that the failure to read privacy policies and failure to understand the meaning of privacy policies suggests that the existence of such policies does not further persons' autonomy. After all, the decision not to review a policy may evince a belief that one does not need to understand that policy in order to make decisions according her values as she sees fit. Such an argument would be mistaken, however, for it equates individual decisions not to read and understand privacy policies with a global judgment that such policies are unimportant. The realistic *opportunity* to incorporate their values into decisions is the crucial step for respecting autonomy, not persons actually doing so. The protection of meaningful choice is what is important in respecting autonomy, not that persons actually make choices that comport with their values.

Hence, respect for autonomy will at the very least demand that patrons deciding whether to use such resources have access to information about privacy policies and treatment of information about their reading habits. Access to such information would (at least in principle) allow patrons to decide whether potentially disclosing information to third parties comports with their values, and thus would allow them to exercise autonomy over (for example) decisions to use personalized interfaces or borrow Kindle books. As figures 1 and 2 illustrated,

some libraries are doing just this. When patrons log into their Kindle accounts to borrow books, the library in the example provides a disclaimer that their personal information may not be protected as it is with the library's domain.

A more widespread issue with respect to providing information about privacy effects of electronic resources concerns licensing contracts. Some commentators have noted that such contracts may have provisions that affect patron privacy (Lipinski 2013; Harris 2009). For example, they may require a library to monitor patron activity for unauthorized use, notify publishers of any unauthorized uses, or keep track of usage logs to aid in investigations surrounding unauthorized use. Likewise, because publishers are not bound by state library privacy laws, they may be able to collect information about patron activity that is not subject to library collection. Hence, library commitment to privacy may not extend to stringent license provisions. Moreover, many publishers seek to keep licensing contracts confidential for the sake of business competitiveness (Lipinski 2013, 425-27; Harris 2009, 85-86). Where the contracts are with publicly funded libraries, they are often available through open records requests. However, those require some effort and are not applicable to private institutions. The framework offered here suggests that contracts should be made *readily* available, and that institutions valuing intellectual freedom should avoid contracts requiring confidentiality about terms, regardless of whether disclosure is available via open records laws. (Though intellectual freedom may not demand as easy access to pricing information, at least for private institutions.)

Providing such information is, again, a bare minimum requirement of the basic moral principle of respect for autonomy, and such disclosure requirements are the heart of much privacy law. But given their antecedent commitment to intellectual freedom, libraries are a special case. That commitment provides reasons to do more than a bare minimum to respect patron autonomy, for the reasons that follow.

Provision of Resources

The requirement that libraries disclose information about the potential for electronic resources to diminish patron privacy is a conditional requirement: *if* libraries provide access to electronic resources such as personalized interfaces or Kindle book borrowing, *then* they have a moral obligation to disclose information about the ways in which such resources may diminish patron privacy. Notice, though, that if intellectual freedom, and hence autonomy, requires only

disclosure of potential privacy diminution, then a library could fulfill a commitment to intellectual freedom simply by not offering resources that potentially diminish privacy. On the negative view of intellectual freedom described above, information disclosure and a decision not to provide access to electronic resources that may diminish privacy would equally protect intellectual freedom.

But the account of intellectual freedom outlined here entails more. Recall that the argument in this paper rests on the premise that intellectual freedom is a foundational value for libraries and the library profession. Autonomy may be expanded, promoted, or protected, and from the claim that intellectual freedom is valuable it follows that expanding, promoting, or protecting it is valuable. In this context, autonomy can be promoted or expanded by the promotion or expansion of options over which persons can exercise freedom. Hence, there is good reason to provide electronic resources, even where they pose some threat to patron privacy (as with those providing customized services to individual patrons and as with Kindle book lending), because doing so expands the options over which persons can exercise intellectual freedom.

The suggestion that libraries should provide resources in electronic formats is of course pushing on an open door. That is what libraries do, have been doing, and will continue to do. The important point here, though, is that a basis for providing access to such resources is intellectual freedom and autonomy. Discussions regarding intellectual freedom and electronic resource access often focus on issues that arise once there is already some sort of electronic access in place: Internet filtering, equal opportunity to access, restrictions based on content, and so forth (see ALA 2010, 39–40, 73–75). This focus reflects a negative account of intellectual freedom: one's freedom is impinged where some external constraint is imposed on her ability to act. Filters, content restrictions, and barriers based on economic or cultural factors would appear to be external constraints on access to resources that are already available. But on the account offered here, rather than intellectual freedom potentially conflicting with the advent of privacy-threatening electronic resources, electronic resources and privacy are different facets of intellectual freedom itself.

Returning to the examples discussed in section two, providing access to vendor services that allow personalized interfaces, saved searches, and the like would indeed appear to promote persons' intellectual freedom by expanding their abilities to use such resources

effectively. In light of the Pew research discussed above, there do appear to be important impediments to patrons' ability to read electronic books. That is a limitation on intellectual freedom, properly understood. And there is no question that access to scholarly publications in electronic formats is crucial for academic research, and foregoing licenses for such publications would certainly limit intellectual freedom within that domain. This is a point worth emphasizing, and it will become crucial in considering the nature of tradeoffs between access to electronic resources and privacy protections, as noted below.

Choice Amid Reasonable Options

If the view presented here is correct, and intellectual freedom is best understood as a quality of agency (viz., autonomy), and hence availability of electronic resources is a facet of intellectual freedom, there is a further question as to whether *any* expansion of options is ipso facto freedom-expanding, and hence autonomy-promoting. To address that question consider why autonomy is important in the first place.

Autonomy is important because persons are capable of arriving at their own conceptions of what is good, determining what is of value in their lives, and making decisions that comport with those views. But that capability is valuable not as a function of mere choice; adding lots of unattractive choices to a person's lot does nothing to increase her ability to govern herself or incorporate values into her decisions as she sees fit (Raz, 1988, 408–410). After all, a person's ability to select, say, several flavors of sawdust to eat constitutes a choice, but it does not amount to an ability to exercise autonomy with respect to one's dinner (and a fortiori does not amount to an ability to exercise autonomy in any morally worthwhile way). Rather, one's ability to act autonomously is realized, and is made valuable, by the existence of good choices—choices that may actually align with persons' conceptions of the good.

Returning, then, to potentially privacy-diminishing electronic resources, whether such options further patrons' autonomy (which is to say their intellectual freedom) will depend on whether they are, first, actually useful and desirable, and second, whether they are available alongside other actually useful and desirable options. Consider again Kindle book lending. The evidence from Pew suggests that readers do consider having the option to read books on Kindles and Kindle-enabled devices to be attractive. But privacy-protection is valuable, too, for the reasons noted above: it is both valued and its loss affects persons' behaviors. Hence, simply

providing books in Kindle format may advance one aspect of autonomy, but would not necessarily advance patron autonomy *on balance* because there would be no other, privacy-protecting way for patrons to borrow those books.

We can see the point slightly differently by comparing two possibilities. In one, a popular book is available to patrons only in an electronic format that requires a patron to share her information with a third party, such as Kindle via Overdrive. In the other, that book is available in both the electronic, information-sharing format and in hard copy, where records of individual patron access are retained only while the book is checked out. The second scenario promotes autonomy, and hence intellectual freedom, in a way that the first does not. In each case patrons have the negative liberty to read the book without interference, but in the first scenario the only alternative to sharing personal information is forgoing the opportunity to borrow the book altogether. But that is not an attractive alternative to someone who both wishes to read the book and values her privacy regarding her reading habits. Both of those desiderata are utterly reasonable. Thus, because the second scenario provides greater opportunity to consider reasonable alternatives, it better promotes autonomy, and hence better comports with the value of intellectual freedom.

Now one might argue that patrons would in any case have the opportunity to purchase the book in whatever format it is available, and her intellectual freedom is therefore equally well preserved in either case. But such an argument would have to rest on the negative conception of freedom, which I have argued above is inadequate as a conception of intellectual freedom.

A more difficult issue is tradeoffs between aspects of intellectual freedom. In the example of choosing hard-copy and electronic versions of a book, intellectual freedom creates a substantial reason in favor of obtaining copies in both formats. That is not, though, an all-things-considered judgment or a categorical obligation to acquire resources in multiple formats. Collection budgets are limited, and it may be that patrons overwhelmingly choose electronic formats, even if they are aware of potential privacy concerns. In that case, it may well be that autonomy is better promoted overall by foregoing privacy-preserving options.

Moreover, it is well-recognized that the market for electronic books is unsettled and the ways in which electronic books will be available in libraries in the future is unclear. Current availability is far less than demand, access is often cumbersome, and prices seem high (Pew

2012b, 52-62). Wider availability, easier access, and lower prices may end up coming at the price of sharing patron information that can in turn be used for commercial purposes. That is, libraries might be able to offer greater accessibility by entering into licensing agreements that allow publishers to collect, use, and share individually identifiable patron information—for example by requiring patrons to have accounts with the publisher. But if we understand intellectual freedom as I have argued we should, we cannot examine such arrangements as a limitation on intellectual freedom in favor of greater access. Rather, it must be understood as a tradeoff between different aspects of intellectual freedom.

In light of the difficulty of assessing such tradeoffs, it is worth noting the limitations of the account offered here. Because access and privacy are both aspects of intellectual freedom, and because they may conflict in any number of ways, decisions about collection development will inevitably result in tradeoffs. Hence, whether it is worth foregoing a resource because of privacy concerns, or whether it would be worth accepting a discount on licensed resources in exchange for greater access to patron information (freeing up money for better access to other resources), will be the stuff of negotiation.⁷ However, the fact that there is a tradeoff in intellectual freedom provides a reason in favor of more aggressive contract negotiations, a point to which I return below.

Fostering Independent Development of Reading

One of the reasons in favor of the view of freedom offered here is that it provides an account of why formation of desires may be freedom-limiting. Freedom on this view requires that persons be able to develop desires, values, and character amid opportunity to consider and reflect on reasonable alternatives. Applied to intellectual freedom, it requires that persons be able to develop intellectual proclivities, reading preferences, and the like with sufficient opportunity to consider and reflect on other intellectual avenues. There is a prominent thread in the philosophical privacy literature arguing that the value of privacy is closely related to just such opportunity. These are often referred to as “personhood” or “personal dignity” accounts of privacy’s value (Allen 1988, 43). Jeffrey Reiman, for example, argues that privacy is important to confer “moral title” to one’s existence (Reiman 1976, 39). The idea seems to be that the extent to which one is morally responsible (either praiseworthy or blameworthy) depends on the extent to which one’s values and choices are one’s own. Further, one’s choices and values are ensured to be one’s own where those choices and values develop beyond others’ scrutiny. That

is, the extent to which others observe a person may cause her to develop her character and values in such a way that reflects those others' values rather than being the product of her own thoughts. See also (Bloustein 1964). Of course there is no such thing as character and value formation outside of others' observations, and it is not desirable that persons' values form without *guidance* from others, including one's family and community. The point, though, is that there ought to be *some* refuge from others' observation to allow persons the opportunity to develop their characters and values for their own reasons.

Such views illustrate the relation between privacy and desire formation—lack of privacy in important domains may undermine the degree to which one's desires, values, and character are one's own. Compare this to the account of intellectual freedom I have argued for here, according to which intellectual freedom is a function of whether one's intellectual values, desires, and character form with ample opportunity to consider and reflect upon reasonable alternatives. The personhood accounts base privacy's value on precisely that opportunity to form one's character, values, and desires with the opportunity to consider reasonable alternatives. Privacy helps afford such an opportunity.

In terms of library practices, this would imply that there should be ample opportunity for resource use without information collection and that persons be able to develop intellectual habits with limited information disclosure. There should be enough availability of different modes of information provision that no one would need to obtain most information, or most information of any one type, subject to monitoring. This in part reinforces the need for choice amid reasonable options.

More important, the issue of value formation gives rise to a duty to protect children's and young persons' reading and intellectual privacy. The account of intellectual freedom offered here is neutral with respect to the actual reading habits and desires of adults. What matters is that they have the opportunity to form those habits and desires with ample opportunity to consider and reflect upon reasonable options. Further, as we've seen, the formation of values and desires from an early age without such opportunity is an affront to autonomy. Hence, if young persons' reading habits and intellectual proclivities are scrutinized to the point that they will reflexively steer away from reasonable alternatives, it is a limitation on their autonomy as adults. Again, this is not to say that there are *no* legitimate reasons to observe children's reading habits. Rather, it provides a reason in favor of some degree of privacy.

Professional library organizations already endorse privacy for children and young persons, but there may be further responsibilities. Suppose, for example, that a library wishes to establish a system to provide homework help for children. In order to induce children to use the service, they develop an application for use on a social-networking site the children already use. But, as with all such applications (based on the network's architecture), information collected will be sharable with other third parties. In other words, children's intellectual activities would be subject to monitoring, tied to their social network account.⁸ One worry is that the users would develop habits, and hence desires, consistent with others' monitoring. That is at least potentially a worry from the perspective of autonomy.

Emerging Issue: Contract Provisions

I have already discussed the importance of information about vendor privacy policies in respecting patron privacy, and one of the issues outlined in section two is licensing contracts for electronic resources. Because both e-books and electronic journal subscriptions are governed by contract, it is particularly important to scrutinize contract language for issues of access and privacy in the service of intellectual freedom. Scholars have examined how conceptions of authorized users have developed in licensing contracts (Zhu and Eschenfelder, 2010), which is a key issue for access. However, the degree to which such contracts bear upon patron privacy has not been systematically addressed. Preliminary results in an ongoing project examining privacy provisions of licensing agreements between libraries and content providers (publishers and aggregators) show that many contracts require libraries to monitor patron traffic for unauthorized uses—which is to say uses prohibited under the licensing agreement. Some may require that libraries identify users engaged in unauthorized use and reporting them to the provider (see [cite redacted]), and others require that libraries assist in the investigation of unauthorized uses. Surely such provisions are relevant to patron privacy and at least warrant disclosure, for reasons noted above.

It remains to be seen just how pervasive such provisions are, whether and how licensing contracts evolve, and the actual effects of the provisions on patron privacy. Nonetheless, it is an issue worth examining in that disclosure of contract terms may be every bit as important for protecting patron autonomy—and intellectual freedom—as notice of vendor privacy policies. More importantly, contract provisions may be an important place to press for greater protections for reader privacy. While Kindle's business model may have made it important for

Amazon to have access to user information, it is not clear that the same is true for journal publishers.

VI. Conclusion

On its surface, this paper aims to address a vexing question in LIS about how to assess tradeoffs between provision of electronic resources and library patron privacy. But because privacy protections are justified by intellectual freedom, the deeper purpose of the paper is examining the nature of intellectual freedom and its relation to privacy. In doing so, I have argued that intellectual freedom should be understood as a quality of agency, such that a person is intellectually free only if she acts autonomously with respect to intellectual endeavors. But autonomy demands more than simply protecting privacy, and libraries' commitment to intellectual freedom in the context of electronic resource provision demands more than mere disclosure of privacy policies. Rather, it demands providing electronic resources, providing them amid reasonable and attractive options, and ensuring that patrons develop intellectual preferences and desires independent of observation. Of course any number of questions remain. Perhaps the most important is the stringency of these requirements, and how they should weigh in decisions about licensing access to electronic resources. But in any case that assessment should be based on the proper conception and requirements of intellectual freedom.

Notes

1. In his introduction to a special issue of *Library Trends* addressing the Library Bill of Rights, Wiegand (1996) laments what he sees as a tendency of LIS scholars and library professionals to speak more to one another than to address scholarship and trends in cognate fields. Hopefully that has improved in the years since, as professional and academic inquiry has worked increasingly across disciplines. Nonetheless, it is an important critique to keep in mind.
 2. One limitation of the negative conception is the difficulty of determining whether particular constraints are external to an agent or not. A person's inability to read a text is in some circumstances not an external constraint, for example where the text is in a "dead" language. In other circumstances it is less clear, as when the person has been forced by economic conditions to work rather than attend school, and hence has not achieved the level of
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literacy needed to read a document most people in a society are able to read. This conceptual difficulty is in my view a mark against the negative freedom view, though others make a case for expanding the conception of negative freedom (see, for example, (Cohen 2011)).

3. A classic criticism of this sort of view is the possibility of the “contented slave.” Suppose that Scarlett is owned under a chattel slave law. Unlike most slaves, though, she is provided with substantial material support, is not required to work, and can come and go from her home frequently. As it happens, she does not wish to go frequently. She may have her every wish fulfilled, but as a matter of chance she never comes to wish to leave altogether. If she tried, she would be prevented. But because her desire is to stay, she does not try. There are no constraints on her actual desires. Hence, on the internal positive freedom view, and on the one freedom view, Scarlett is free. But that cannot be the case, for she is a slave; she would be prevented from doing something that it would be utterly reasonable and morally permissible for her to do. That is the very antithesis of being free.

4. One might be tempted to attribute Scarlett’s lack of freedom to there being a possible desire (i.e., to leave her owner) that is thwarted. But allowing that constraints on possible desires constitute losses of freedom renders the notion of constraints vacuous. Anything is a constraint on some possible desire. Even material wealth is a constraint on the possible desire to authentically experience poverty, but to call wealth liberty-limiting would render the concept of liberty meaningless (see Christman 1991).

5. Of course it may be true that in this time and place internal positive intellectual freedom provides a reason in favor of strong privacy protections. But the fact that it may not always do so weakens the connection between intellectual freedom and privacy on the internal positive account. Because this project is to determine whether there is a philosophically-defensible connection between intellectual freedom and privacy, that weakness provides a reason to search further.

6. The first premise of the main argument states that intellectual freedom is important independent of whether anyone places value on it. That independent value is a reason for persons to care, and why its importance in libraries is appropriate.

7. Thanks to an anonymous review for *Library Quarterly* for this point.

8. Thanks to Michael Zimmer for the example.

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