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## **Informational privacy: a precondition for democratic participation?**

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# Informational privacy: a precondition for democratic participation?



The value of informational privacy has long ceased to be seen merely in the protection or exercise of individual autonomy. Already in the early 1980s, the German Federal Court pointed out that the political autonomy of citizens in exercising their democratic rights and duties would be incompatible with a “social and legal order [...], in which citizens could no longer know who knows what about them, when and on what occasion” (BVerfGE 65, 1). In this blog post, I want to highlight four dangers to democratic rule that may arise out of a society, in which privacy rights are not adequately protected or are even disregarded.

Democratic theory accords five functions to the public sphere in general and citizen’s participation in particular: the aggregation of political opinions or individual interests; the public deliberation about values and policies; the translation of these public discourses for political institutions; the control of state actors and political officials; and finally a basic social integration of citizens in the sense of a feeling of being connected to a political community through a common democratic project. Some or all of these functions are potentially compromised by certain mechanisms of informational privacy management through state institutions or commercial actors.

1. The most obvious of these mechanisms are forms of openly showcased surveillance, typically by law enforcement authorities. CCTV cameras in public spaces or open filming of street protests by the police are not only designed to retroactively identify law infringement, but also to proactively deescalate protests and to deter potential offenders. These kinds of surveillance of public spaces and documentation of political participation become problematic for the above-mentioned functions of democratic systems, in the event that the monitored subjects develop the impression that they have to fear social – or even legal – sanctioning.

In its extreme form, the result of such a form of surveillance can be studied from the social credit system that China introduced in pilot cities such as Rongcheng and others. In such a system, the citizens know that their social behaviour is registered by the authorities, and unwanted behaviour is sanctioned by withdrawing privileges or enforcing restrictions. It is easy to see that already a widespread fear of negative consequences will likely produce normalising behaviour or deter citizens from participating in street protests at all. This chilling effect has immediate repercussions for each of the five mentioned functions of democratic participation.

2. This same chilling effect can occur if citizens do not know whether they are being monitored or not. In what has been termed the “[panopticon](#) effect”, a normalisation process is instantiated through the mere possibility of being surveilled. This is what the German Federal Court warns about in the above-mentioned quote from its 1983 decision. In much the same way as with open surveillance, citizens may be deterred from participating in democratic protests, petitions, movements, online debates etc.

Such a chilling effect will have negative repercussions for all five functions of political participation. This may prove especially problematic for already marginalised groups, since they are likely to have even less voice in public will formation and aggregation than before. In turn, a loss of voice will affect the control and translation functions of public spheres, if certain political perspectives are absent from the public debate and a potentially one-sided dominant public narrative backs specific institutional actors. As a result, disenfranchised constituencies may completely withdraw from political participation and in the end disengage from the common democratic project, which puts the social integrative function of political publics under stress.

From developmental psychological arguments for privacy, according to which the formation of an authentic identity and a positive self-relationship requires at least phases of privacy, another connection between informational privacy and political participation can be inferred: Without such an identity that is built on “wholeheartedly” accepted life choices and plans ([Frankfurt, 1987](#)), individuals are not capable of acting as politically responsible citizens. In other words, the civic education and political literacy must remain incomplete without a minimum of privacy in the developmental phase.

Hannah Arendt famously concludes that “everything that lives [...] emerges from darkness, and however strong its natural tendency to thrust itself into the light, it nevertheless needs the security of darkness to grow at all” ([Arendt, 1954](#)). Only in such a safe space, adolescents are blocked off from the “merciless” eye of the public and can securely try out different roles and life plans, harmonise their own conflicting desires and self-images, and appropriate them as their own identity without the normalising effects of public scrutiny.

In much the same way as other roles and patterns of behaviour, the citizen role has to be learned, i.e., certain role expectations and obligations have to be identified, tried out and internalised. If this process is distorted or restricted, there is a danger that the citizen will not accept her political responsibility, or even become apolitical and withdraw from political participation altogether. Although this may not affect the aggregation of individual interest as purported by a liberal model of democracy, already the aggregation of opinions about the common good will most likely become lopsided. The same goes for the other four functions, especially when such an inadequate civic education results in a refusal to accept one’s responsibility as citizen by completely withdrawing from political participation.

4. For a while now, filter bubbles, echo chambers and the strategy of micro-targeting have become the go-to explanation for an increased polarisation and mutual immunisation of opposed political camps within modern democracies. Each of these mechanisms relies on voluntary or involuntary sacrifices of privacy: the more personal information a citizen shares online, the more the news items she receives are likely shaped by news feed algorithms and campaign spin-doctors. Disclosing personal information in the context of social media or political campaign contexts results in a personalisation of political information and thereby in an under- or misrepresentation of certain political positions.

This is especially prevalent in social media filter bubbles, where already shared political convictions dominate, while other political opinions are often ridiculed or even demonised as propaganda. In much the same way, micro-targeting aims at presenting political information in a way that it is most likely accepted by a specific person. This polarisation and singularisation mechanism poses a series of challenges for the five functions of public spheres and civic participation: Publics will become even more fragmented and – what is worse – increasingly immunised against each other, thereby impeding political deliberation and the translation of political opinions.

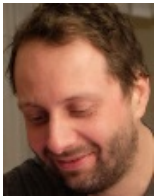
Also, the control function will be increasingly difficult to uphold, if polarisation exceeds a certain threshold and the “other side’s” demands for accountability of power-abusing, corrupt politicians are merely seen as smear campaigns. Excessive polarisation will also very likely have socially disintegrative effects, as there is no longer a common ground in the form of a thin overarching societal public sphere that can uphold a shared political culture.

As we have seen from these cursory remarks, informational privacy is not only an important condition for individual autonomy, identity formation, and intimate relationships. It is also a precursor for democratic participation and political public spheres. Democracy as a “government of the people, by the people, for the people” ([Lincoln, 1863](#)) must provide public arenas in addition to institutional structures for political opinion-forming, democratic control and judicial review. These, in turn, must not only ensure the possibility for its citizens to participate without fear, but must also seek to integrate diverse political discourses and provide an overarching thin political culture, in order to enable the “coexistence and association of different men” ([Arendt, 2005](#)).

Properly functioning public spheres that can secure aggregation, translation, deliberation, control, and social integration require, as we have seen, informational privacy. The four dangers for public spheres and political participation that I have highlighted above make this clear. For their own sake, democracies need to protect the informational privacy of its citizens, in some instances even against their inclinations and impulses to abundantly share information online. This should also entail – but is not limited to – ensuring that the citizen's consent in the use of their data is really informed.



- *This blog post is a short abstract of a paper in German with the title “Informationelle Privatheit als Bedingung für Demokratie”, which will be published in the journal “Archiv für Rechts- und Sozialphilosophie” in early 2020)*
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