



Book Review

Solove, Daniel J. 2008. *Understanding Privacy*. Cambridge and London: Harvard University Press.

272 pp, Hardcover, \$45 (US). ISBN-10: 0-674-02772-8.

Vida Bajc

Postdoctoral Fellow, The Surveillance Project, Queen's University, Canada. <mailto:vbajc@sas.upenn.edu>

This book is a systematic and comprehensive clarification of a well-known legal conundrum. Privacy is a value respected cross-culturally and considered worldwide as something to be protected through legislation and guidelines by modern states. The legal system on which we actually depend to enforce our privacy rights, however, lacks a clear articulation of what privacy actually is and what specifically law should do to protect it. This becomes particularly problematic when privacy is weighted against well articulated competing interests in the courtroom where this conceptual weakness often makes it difficult to clearly put forth what all is at stake when privacy is violated. To remedy this situation, Solove takes a decisive turn. He proposes that privacy should be conceptualized not as a unique value but rather in terms of the kinds of disruptive activities that create privacy problems. Moreover, while the right to individual privacy is essential for contemporary social life, Solove argues that juridical deliberations about the value of privacy should be much broader and centered not merely on individual wellbeing but rather on the good of the whole society. While ample international comparative examples are used, the book is concerned primarily with privacy laws and regulations in the United States.

Part of the problem with legal conceptualizations of privacy, Solove demonstrates, lies in the approach. Legal scholars seek to articulate what is uniquely identifiable about privacy. Attempts to find a common denominator that would capture all instances of privacy, however, have not succeeded. Solove suggests that the reason for this may be that no such unitary terms actually exist. While intuitive sensibilities about privacy violations may well be universal, privacy practices and attitudes certainly are not. Indeed, what constitutes privacy is shaped by different social, cultural, and historical circumstances. Drawing on research in social sciences and humanities, Solove points out that conceptions about privacy in the domains we most cherish today - namely the family, body, sexual activity, home, and communications - have in fact been transforming and changing through time. The value of protecting against violations of privacy is in the importance of safeguarding against potentially disruptive activities. Given that perceptions and attitudes toward privacy are ever changing, Solove argues that it may be more fruitful to focus on problems that arise when privacy is violated or disrupted rather than on abstract definitions of what privacy is.

This shift in focus requires rethinking the reasons why privacy is worth protecting. In a legal setting, a privacy interest is defined in relation to its value to the individual. This value is then compared and balanced against practices that disrupt privacy. Not all such practices, however, are wholly negative or worthy of prohibition and some have larger social benefits. Among the examples Solove mentions are efficient consumer transactions, security, and free speech. In such cases it is difficult to outweigh the value of individual privacy against what is defined in terms of larger societal interests. To more clearly articulate the value of privacy in the age of information technology and in the face of a growing prominence of the value of security, Solove suggests that judges and lawmakers should resist the narrow conceptions of privacy in relation to the individual and focus instead on social benefits and contributions privacy makes to social relations as a whole. To position individual interests as at odds with those of society is shortsighted. Individuals can not be separated from social relations, Solove reminds us, and so we can not

Bajc, Vida. 2009. Review of Solove's *Understanding Privacy*. *Surveillance & Society*, 6(3): 327-328. <http://www.surveillance-and-society.org> | ISSN: 1477-7487

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think of individual benefits of privacy separately from the contribution they make to the common good. Solove's emphasis on the relationship between individual and society signals that there is a need for deeper understanding that protection of individual rights is not simply for the sake of individuals but rather for the quality of inter-personal relations and the good of society as a whole.

With social relations in mind, Solove lays out a taxonomy of privacy problems which is based on four general groups of activities that can violate privacy: information collection, processing, dissemination, and invasion. Within each main group he lists a subgroup of potentially disruptive activities and explains through specific examples where privacy problems lie and why. This is a particularly informative part of the book that draws on a variety of laws and their histories as well as examples of how courts succeeded or failed to recognize privacy problems in different cases. Solove's discussion is nuanced and shows great sensitivity to the notion of the social. He understands very well, for example, that societal norms are not always compatible with the norms of a minority. He suggests that in such circumstances, juridical deliberations must be open to a possibility that it may be best for the society to curtail its norms to the benefit of the minority. He recognizes structural flaws, for example in the circuits of information gathering, processing and sharing, which may expose individuals to potential future harm. He calls such systemic problems architectures of vulnerability and likens them to diseases that weaken the immune system. Privacy problems that may result from cumulative effects over time do not escape Solove's attention. These problems accumulate through a combination of disparate minor acts that go unnoticed by the legal system. Here he makes an analogy with pollution as an outgrowth of industrial production. He has a keen eye for power imbalances between individuals and large corporations and individuals and the state and proves to be an astute observer of how these affect social structures. In short, Solove shows a strong sensibility for how privacy protections have profound effects on the culture of trust, political culture, power relations, structural inequalities, state and corporate power, freedom, democracy, and overall quality of life.

Solove's approach to guarding against privacy violations to the individual for the benefit of social relations in society as a whole is a very welcome - if also a tough call. It requires a sociological imagination, the ability to conceptualize the interconnectedness of individual life in the context of a larger social group. These contingencies are not necessarily intuitively knowable. They require imagination because they go beyond one's immediate experience and perception. To follow Solove's approach, law and policy makers will need to be sensitive to these relations. With this move away from relying on a fixed definition of privacy, there also comes a necessary ability to follow social change and envision future trajectories of how attitudes towards privacy are changing as new potentially infringing activities are invented by a variety of interests. Inevitably, this leads to a concern with a vision of what kind of social relations we value and what kind of society we are constructing through actions as much as inactions of the legal system. Above all, Solove's book is a call to social scientists and educators interested in individual-state relations, globalization, corporate cultures, and interpersonal relations mediated by technology. Detailed cross-cultural and historical-comparative studies of how different social groups perceive privacy in different interactional contexts would be helpful to Solove's agenda, as would studies of longitudinal and generational trends of how these perceptions are shaped through technological innovations and changing political climates. This is a highly informative and readable book that should be included not only in undergraduate preparatory courses for professional degrees candidates but also in introductory courses to social sciences so that students can continuously be reminded why privacy is worth protecting.