Nothing to Hide The False Tradeoff between Privacy and Security

Review by:
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Relevance to Class

- D Solove's literature was actually discussed in class and this book has been the topic of a quiz question.
- The Book mostly speaks in the defense of privacy against the need to surveill the population for their protection.
- “The choice is not between a security measure and nothing, but between a security measure with oversight and regulation and a security measure at the sole discretion of executive officials”
- Articulates the idea of increasing the weight that privacy carries in discussions such as National Security throughout the book
  - “…times of crisis are precisely when we should be at our staunchest in protecting privacy and liberty.”
- Utilizes parts of Warren and Brandeis’ conceptions of privacy, cites a few cases the Brandeis ruled on such as Olmstead vs United States
Beyond Class

- D Solove also goes over the history of the changing interpretations of the law as it relates to privacy laws.
- This goes on to be a description of how the 1st and 4th amendment went from protecting people from having undue distress from Police and other branches of the executive branch to merely protecting the “privacy” of people, but only in ways that limit what one is capable of doing in life
- “In other words, go live as a hermit in a cabin on a mountaintop. That’s where the Fourth Amendment still protects you.”
- Content and Envelope argument, sometimes having information about the “envelope”, ie. IP addresses and phone numbers gives just as much information as knowing the contents of the message
  - “Envelope information isn’t innocuous, and the privacy interests in protecting it can be just as strong as content information.”
Solove’s Disagreements with Class topics

- Solove feels that U.S. law is inadequate for preserving and regulating privacy as related to such statutes as the FTC Fair Points which does not regulate how the Government collects data
  - He points to stronger, but more broad protections that can keep pace with advancing technology
- The problem extends to the Government circumventing the 4th Amendment by obtaining information from 3rd parties such as websites
  - "According to the U.S. Supreme Court, if your information is in the hands of a third party, then you have no reasonable expectation of privacy in it—and as a result, no Fourth Amendment protection."
- He disagrees with contextual integrity as a measurement for privacy and points to how context can be outdated and cause breaches in privacy
Disagreements with Solove

- Solove does not use others works to back up his arguments and solely quotes points that he disagrees with and then attacks those points.
- To Solove, privacy is absolute but security is variable, and while losing privacy rights is a slippery slope, there is a difference between losing some privacy and losing all of it.
- Some examples he uses only examine the surface of the situation in order for it to fit with the topic he is discussing.
Tension Between Rights and Values

- In Solove’s eyes, there is a huge difference in the rights of the people as was given when the constitution was first formed, to what it is now, as has been warped due the introduction of new communications technology.
- People no longer value their rights enough, as they do not realize the implications of giving up those rights are.
- Solove also explains that technology changes very rapidly and sometimes we don’t stop and assess the risks associated with these new technologies.
  - “While many new security proposals have great upsides, proponents are not giving adequate thought to the consequences if they fail. These consequences can prove catastrophic”
Conclusion

● The rights granted by the laws of the country are not necessarily static.
● Equal consideration should be granted to privacy in matters of security because both are not mutually exclusive and we can still have privacy while providing necessary security.
  ○ “Security and privacy often clash, but there need not be a zero-sum tradeoff”
● Many privacy issues stem from a lack of clarification about the potential impacts of new technologies, and to counter this we should consider balanced legislation to provide future protections.
● All arguments about privacy should be examined from a fair perspective
  ○ “What I hope I’ve accomplished is to point out some of the flawed arguments in the debate and to correct myths about the law”