

Preface

This volume collects the fully revised texts of the papers presented at the international workshop on “Protection of Information and the Right to Privacy: A New Equilibrium?” held at the European University Institute, Fiesole, 21st June 2013. The meeting was organised by the UNESCO Chair in Information and Computer Ethics, in collaboration with Google and the Department of Law, and the Global Governance Program at the European University Institute.

The idea of the workshop was to deal head-on with the difficult but necessary balance that liberal societies must find between freedom of information (understood as freedom of speech and as the opposite of censorship), security, and privacy. Let me explain.

Communication means exchanging messages. So even the most elementary act of communication involves four elements: a sender, a receiver, a message, and a referent of the message. All this is unproblematic. What may cause difficulties is the fact that, at different times in human history, these components have been associated with a variety of rights and freedoms. *Freedom of speech* concerns the right to send messages. *Freedom of information*, understood as the opposite of censorship, concerns the right to receive messages. *Communication security* concerns the right to see the message protected from unwanted intrusion. And the right to *informational privacy* is the freedom from being the referent of a message. Finding an equilibrium in this square has always been a matter of delicate negotiation. However, it was a less daunting task when few identifiable senders sent easily accessible messages to few identifiable receivers, about clearly checkable referents, with very limited tools to undermine the safety of the message. Digital Information and Communication Technologies (ICTs) have disrupted all this irreversibly. Today, the number and kinds of senders and receivers have grown exponentially, to become virtually limitless; the quantities and types of messages are already staggering; the variety and sophistication of malicious applications are a growing threat; and the nature and scope of the referents is now potentially boundless. Phenomena such as citizen journalism, once inconceivable, have become commonplace. Governments and companies produce and deploy surveillance technologies on a vast scale. Indeed, we are discovering that the old equilibrium was achievable also thanks to constraints that ICTs have either removed or are increasingly eroding.

The result is that ICTs are redesigning the equilibrium between freedom of speech, freedom of information, information security, and the right to informational privacy. New tensions and potential incompatibilities within this square keep emerging with increasing pressure. Clearly, finding a new balance has become a pressing task in any information society that seeks to implement informational rights and freedoms while fostering technological innovation, higher standards of living, and human well-being.

In this complex scenario, it seems that old legal and ethical frameworks may need to be not only updated, but also supplemented and complemented by new conceptual solutions. Neither a conservative attitude (“more of the same”) nor a revolutionary zeal (“never seen before”) is likely to lead to satisfactory solutions. Instead, more reflection and better conceptual design are needed, not least to harmonise different perspectives and legal frameworks across countries. So the task of the workshop was to contribute to fill the serious gap identified above. In particular, the focus was on how we may reconcile high levels of information security with robust degrees of informational privacy, thus solving the new tensions and build a fair, shareable, and sustainable balance. Of course, this is not an easy task. But our hope is that the workshop and this volume may contribute to identifying solutions, resolving problems, and anticipating difficulties in such a vital area of human interactions.

The format of the workshop was that of an invitation-only, one-day meeting. Only a selected number of experts and members of the audience was invited to participate, so it was possible to take for granted most background knowledge and focus immediately and sharply on the issues that we considered more pressing. Pre-meeting drafts of the papers were made available to all participants, so that we could all become acquainted with the intellectual agenda before coming together for the meeting. This is also why it was possible to publish this volume within a rather reasonable timespan.

The workshop saw the participation of a selection of distinguished experts, here listed in order of presentation, with the updated titles provided for the new chapters of the volume: Giovanni Sartor (University of Bologna & European University Institute), *The right to be forgotten: dynamics of privacy and publicity*, Ugo Pagallo and Massimo Durante (University of Turin), *Legal memories and the right to be forgotten*; Mireille Hildebrandt (Radboud University Nijmegen), *Location Data, Purpose Binding and Contextual Integrity: What's the Message?*; Dawn Nunziato (George Washington University), *With Great Power Comes Great Responsibility: Proposed Principles of Digital Due Process for ICT Companies*; Hosuk Lee-Makiyama (European Centre for International Political Economy (ECIPE)), *The Political Economy of Data: EU Privacy Regulation and the International Redistribution of Its Costs*. My chapter, entitled *The Rise of the MASs*, closes the volume.

I shall not summarise the contents of the chapters here, since a short abstract introduces each of them. What I may mention, by way of conclusion, is that, with a bit of luck, if it can be so-called, the “Prism scandal” hit the news just a few days before the workshop took place,¹ proving, if still necessary, that the aforementioned equilibrium is crucial in democratic, information societies.

— L. Floridi

¹ Gellman, Barton; Poitras, Laura (June 6, 2013). “US Intelligence Mining Data from Nine U.S. Internet Companies in Broad Secret Program”. The Washington Post. Greenwald, Glenn; MacAskill, Ewen (June 6, 2013). “NSA Taps in to Internet Giants’ Systems to Mine User Data, Secret Files Reveal—Top-Secret Prism Program Claims Direct Access to Servers of Firms Including Google, Apple and Facebook—Companies Deny Any Knowledge of Program in Operation Since 2007—Obama Orders US to Draw Up Overseas Target List for Cyber-Attacks”. The Guardian.

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