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Privacy -- Public and Private

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Privacy has been taking a beating lately. I mean the word itself, not just what it's supposed to designate.

NSA Director Keith Alexander struck some sort of low point, when he went before the Senate to insist, "We have great people working under extremely difficult conditions... [to] protect our civil liberties and privacy." This is the kind of pronouncement that George Orwell had in mind, when he described "political language" as "designed to make lies sound truthful ... and give an appearance of solidity to pure wind".

But in fact, privacy is slippery and multi-faceted term, as much for privacy advocates as for those prepared to define it into meaninglessness. It is what philosophers call an "essentially contested" concept -- like liberty, social justice, or democracy -- notions widely upheld in principle, but which evoke the sharpest dispute over how they might be put into practice. Most understandings of privacy involve control over information on matters that are strictly one's own business. But quarrels are never-ending over how to draw the line between what constitutes "one's own business" and what represents the legitimate concern of one's intimates, one's neighbors, or the state.

Perhaps more seriously, when we speak of "privacy interests" or "privacy rights," we are often thinking about quite different things.

Privacy can be conceived as a strictly individual, atomistic value -- as a need or claim that one can satisfy for one's self, even as others lose or renounce it. Our interests in this form of privacy are like our interests in being well fed: we can imagine having plenty to eat, even while those around us starve. People waive their individual privacy interests when they willingly disseminate intimate facts about themselves via social media. By contrast, people maximize such individual interests by encrypting their e-mails; or by keeping their money at home, rather than in financial institutions; or by tightening their privacy settings on internet communications. In adopting such

privacy strategies, we seek to protect ourselves, regardless of what's happening to others' privacy.

But another kind of privacy interest is strictly holistic, rather than individualistic. Such holistic interests cannot be enjoyed by anyone, unless their enjoyment is shared throughout the public. Privacy in this sense is like freedom of expression. In the classic liberal vision, all citizens enjoy the benefits of everyone's ability to speak up -- to promulgate his or her views, concerns, complaints or visions of the common good. Conversely, a sense of intimidation or chill that weighs against willingness to sound off in public is a loss for the entire public sphere. By this token, even those who take no part in public debate benefit from guarantees of free speech, since richer and fuller communication in the public sphere presumably redounds to the interests of everyone.

Privacy, in its holistic sense, plays a similar role in public life. Everyone benefits from a world where all citizens have confidence that they can keep details of their thoughts, their lives, their aspirations and their convictions to themselves. By contrast, a world where everyone has reason to assume that the authorities are tracking his or her communications, financial situation, whereabouts, consumption patterns -- and on and on -- is more constrained. Uneasiness over what authorities are tracking what data, and what future decisions will depend on what's collected, can change people's attitudes about how to live.

Thus all citizens share an interest in keeping significant domains of life beyond the reach of institutional monitoring -- even when such limitations of official surveillance raise possibilities for wrong-doing or disruptive behavior. Every participant in civic life, in other words, has a holistic stake in relieving all other participants of fear that the authorities are looking over their shoulders.

It is just such holistic privacy values that mass surveillance programs like those of the NSA are eroding. Many Americans are evidently willing to countenance constant federal monitoring of their telecommunications, their mail, and their financial transactions. But at the same time, many others cannot help wondering when and how the results of such surveillance might be used against them, and people like them. Observers can reasonably disagree over the likelihood of such misuse -- indeed, over what would constitute misuse of such fine-grained personal data. But we all lose -- including those convinced that they "have nothing to hide" -- in a world where many citizens fear the possibility of government action based on information collection that grows more comprehensive by the day.