

# Digital privacy and publicness

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# Digital privacy and publicness<sup>1</sup>

## 1. The distinction between who and what, and the need for a phenomenology of whoness

Human beings share a world together. Whoness is the phenomenon of a plurality of human beings who show themselves to each other in a shared world. A phenomenon is a showing, a disclosing, a revealing which, in its broadest sense, encompasses also the privative or negative modes of concealing and revealing only partially or distortedly. Whoness cannot be located in a single human being like a 'what', as in: 'What's that?' 'A stone.' There is also a reciprocity in human beings showing themselves *to each other*. This observation is key for approaching the phenomenon of whoness as distinct from that of whatness, which has a rich tradition in metaphysics starting with Plato and Aristotle. Whatness has been thought in this tradition as οὐσία, substance, essence, quidditas, etc., whereas whoness has tended to be subsumed under the metaphysical determinations of whatness.

Human beings showing themselves to each other can be regarded as their *showing off* to each other, their *self-display*, even to the point of hiding from each other exemplified in phenomena such as diffidence.

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<sup>1</sup> Paper presented to the symposium *Öffentlichkeit im Netz – the digital public*, convened by Wolfgang Coy and Stefan Ullrich and held at the Institut für Informatik der Humboldt-Universität zu Berlin in the Humboldt-Kabinett, Rudower Chaussee 25, Berlin-Adlershof on 13/14 December 2012 (<http://waste.informatik.hu-berlin.de/tagungen/digitalpublic/>). Sponsored by Informatik in Bildung und Gesellschaft, the Alcatel-Lucent Stiftung für Kommunikationsforschung and Turing-Galaxis. The talk is based on Rafael Capurro, Michael Eldred & Daniel Nagel *Digital Whoness: Identity, Privacy and Freedom in the Cyberworld* ontos, Frankfurt 2013. A further presentation was performed, together with Rafael Capurro & Daniel Nagel, at the international conference The Power of Information in Brussels 20-23 January 2013, convened by the European Union ICTethics Committee (<http://www.thepowerofinformation.eu/>).

Human beings present themselves to each other in the open time-space for presencing and absencing.

It is important for showing-off to have yourself acknowledged by others *as* who you show yourself to be. You choose, or neglect to choose, your masks for self-display in adopting this or that behaviour, wearing certain clothes rather than others,<sup>2</sup> etc. in order to be seen *as* who you present yourself to be. Willy-nilly, you present yourself as some who or other, thus making a certain *impression* on others. Who you *are* is always a matter of having adopted certain *masks of identity* reflected from the world as offers of who you could be in the world. Each human being is an *origin* of his or her own self-movement and has an *effect* on the surroundings, changing them this way or that, intentionally or unintentionally. Being estimated in a positive sense in presenting yourself to others is the phenomenon of *esteem*.

The core mask of identity borne by a who is your own *proper name*, around which other masks cluster. Above all, it is a matter of adopting masks of *ability* reflected by the world, thus developing your own potential abilities to developed personal *powers* of whatever kind. Each who ends up in some vocation, profession, job, social role or other, thus being *estimated* and *esteemed* by the others in the *interplay*. Since human beings are estimated and esteemed above all on the basis of their personal *powers and abilities* as who they are, and because the exercise of such powers also effects some change or other in the world, the interplay of mutual estimation is always also a *power play*, especially in the sense of mutually estimating each other's who-standing. Those of a similar who-status are therefore, for the most part, in a *competitive rivalry* with one another.

The estimation of your abilities by the others gives rise to your *reputation* as who you are, and reputation refers to how you have presented yourself to the world in the past, because you have inevitably

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<sup>2</sup> "It [men's dress] not only covers nakedness, gratifies vanity, and creates pleasure for the eye, but it serves to advertise the social, professional or intellectual standing of the wearer." Virginia Woolf *Three Guineas* 1938/2007 p. 797.

always already established or ruined your reputation in some circle or other.

Wanting to make any impression at all on the world, let alone, wanting to have an impact or to leave your mark on the world, are all manifestations of the *will to power to be someone*. To be someone in the world amounts to having your self-presentation to the world estimated, esteemed and reflected by the world, to *come to stand* in shared presence as a who with some standing.

## **2. Personal privacy**

One kind of individual free life-movement is that of withdrawing into *privacy*, which is always a *privatio* in the sense of a withdrawal from (public) disclosure into concealment. Being able to withdraw or to reveal only certain aspects of who you are and your own life-world is an essential aspect of human *freedom*. It is valued in diverse cultural ways of living, albeit that the social interplay of such concealment and disclosure takes diverse phenomenal forms and is protected by diverse customs.

*Personal privacy* is therefore never the privacy of an individual, encapsulated, autonomous subject, “being let alone”, but the hiddenness of a private life-world shared with certain others to whom you are close and from which most are excluded. This private life-world is not a (physically) separate sphere but includes also *as* who you present yourself to be in public in certain masks whilst simultaneously keeping other masks of self-presentation private. The key to understanding personal privacy is the *play of disclosure and concealment of a personal world*. Others are only admitted to a personal world on the basis of trust and friendship. Within a circle of private intimacy, the individual whos present themselves *as* who they are, but this *as* deviates from the persona presented to the outer world. Such personal privacy is a *privatio* of having to have your self exposed to general public view.

There are also *many* personal private lives; who I am comes about with each you I encounter, and each time anew. With *you* I show myself as such-and-such, and with *you* I show myself as such-and-such; and conversely for you: your masks of self-presentation change according to

whom you are encountering, in a specific situation and at different times. Thus you, too, play a game of revealing and concealing who you are, both publicly and privately. The enjoyment of private life resides largely in the multiple games of who-presentation played within it. In public life, too, the who-presentations are multiple, depending upon the situation.

Privacy cannot be localized in a particular place, although the *home* has special importance as a sheltered place, sheltered above all from the gaze and hence idle talk and the abuse of private information by others. The private world can also be a conversation carried on with a friend in a public square or a restaurant or on a bus, each of which is a public-private place. The business transactions you carry out on all levels are also private in the sense of being nobody else's business. Here the *state* can become very intrusive.

The *cyberworld* fast emerging today is a technologically enabled electromagnetic medium in which bit-strings circulate. It is altering the very meaning of personal privacy. Each of us is today identified with many and various bit-strings, such as a bank account number, a tax file number, an IP-address or an online report or video about you, and so on. With the advent of the cyberworld, the possibilities for revealing and showing off who you are multiply exponentially, and the possibilities of tracking someone's movements in the matrix of the cyberworld are immense, since every movement leaves a digital trace embedded in the matrix.

Since, by its very cybernetic nature, the cyberworld offers such strong technical possibilities of tracking anyone's movements in the cyberworld, including any data an individual deposits on any public site within the cyberworld, issues of personal privacy come to the fore. Above all, it is the easy technical options for recording and mining data of all kinds that are problematic and must be curtailed. The issues surrounding personal privacy in the cyberworld are therefore not merely technical nor only a matter of normative restriction and regulation but, first and foremost, of learning to see that digital personal privacy is itself an historically new socio-ontological phenomenon in which the digital control that the cyberworld affords hits back at human individuals



themselves leading their private lives, thus curtailing their freedom.

### **3. Private property and the gainful game**

The other aspect of cyberworld privacy, which must not be confused with personal cyber-privacy, are the digital, cyberworld aspects of private property. Private property itself is the phenomenal form providing the framework within which a capitalist market economy moves. On a deeper level, it can be shown that a *capitalist economy* is in essence the self-augmentative movement of reified value in which four basic kinds of economic players — the entrepreneurs, the workers, the financiers and the land-owners — compete for gain. This I term the *gainful game*.

Every player in the gainful game is an income-earner striving for income of some kind. Each of the four basic income-types, namely: wages, profit of enterprise, interest and ground-rent, is the price of buying or hiring an income-source, namely: labour power, a company, money-capital and land, respectively. The reification of value as money and price is *arithmetically quantitative*, and thus discrete, which enables easy digitization and hence also almost unlimited scope for calculation, starting from bookkeeping through to models of whole economies running on super-computers. The gainful game played in a capitalist economy is the movement of value in myriad circuits of capital, which can be captured mathematically and hence also digitally, and that in countless phenomenal forms such as supply control, logistics, personal finances, financial accounts of companies small and large, market transactions of all kinds from consumer retail through company turnover to stock exchange transactions in highly derivative products. Money itself can become digital, i.e. a jealously guarded bit-string kept in an electromagnetic purse, access to which is controlled by some kind of cryptographic security procedure. Payments can be made in the cyberworld simply by transferring a bit-string for a certain amount from one digital purse to another.

Private property in the form of *personal* income also has a connection to personal privacy because the individual income-earner is also a *consumer* (along with family members who help spend what the

breadwinner has earned). Consumption is an important, if superficial, aspect of personal identity-formation and identity-cultivation insofar as consumption reflects how an individual shapes his or her private world. Being a consumer, however, brings an individual into contact with firms selling consumer goods. The firm itself may be located in the cyberworld, giving rise to *digital retail commerce*, i.e. *e-retailing*. The consumer enters into a relationship with an online (digital) retailer and hence becomes digitally identifiable, with all that implies for digital retailers' attempts to market retail goods from toothpaste to real estate. Issues of personal privacy arise massively because a consumer's movements in the cyberworld provide the basis for building a profile of individual consumer behaviour that may be used cleverly to enticingly market goods. Debates on internet privacy to date rightly focus on the ease with which personal privacy is intruded upon, which is at loggerheads with privacy understood as private property, with which the gainful game is incessantly pursued.

There is also an intimate connection between the fluidity of the cyberworld with its circulating bit-strings, and the inherent tendencies of a global economy to mobilize everything and everybody gainfully. Money-capital is advanced with the expectation that it will return augmented with profit after all costs have been defrayed. All the various sorts of income-earners are players in this now *globalized gainful game*. The cyberworld as a powerful technology provides the opportunity i) for massive cost reductions in all sorts of ways, especially through automating production and circulation processes, and ii) for increasing the rate of turnover of capital, and thus profits, especially by facilitating communications with employees, customers, suppliers.

Hence it can be seen that the gainful game can be played in and through the cyberworld which, as a global medium, can lubricate and speed it up. The gainful game and the cyberworld are affine, and because the latter is becoming more and more ubiquitous and all-pervasive, the players can be drawn more tightly into the gainful game's play. One could say that the cyberworld is an excellent medium for the *freedom of the gainful game* itself, which is dissociated from its pawns, the income-striving players themselves, and under the control of nobody, especially

not within the grasp of state controls. Politics and the state, at best, can only try to regulate the rules of play so they are *fair*. The cyberworld extends the reach of and accelerates the gainful game. This is a two-edged development since, on the one hand, it enables many to earn an income who have been excluded and can even contribute to fostering entrepreneurship and alleviating poverty. On the other hand, the gainful game itself strengthens its hold on human life-movements, drawing them more and more into conformity with moves in the gainful game, now mediated and lubricated by the movements of bit-strings. To be able to draw back from this tendency to be sucked in, human beings need first of all to *learn to see* the gainful game in its essential nature.

#### **4. Cyber-publicness**

The global electromagnetic matrix that I have dubbed the cyberworld (in preference to 'internet'), provides places to bit-strings of all kinds that can be inscribed in it, where they can also change co-ordinate places, thus circulating through this vector space. Those bit-strings that can be taken in and understood without further ado by human beings, such as written texts, images, audio recordings, digitized movies, etc., may be called (*immediately*) *intelligible code*, in contrast to *executable digital code* (programs, software, apps, routines, algorithms) and *processing data* that are 'read' only by digital programs to produce automatic effects that are not immediately taken in by human beings.

The perplexing, astonishing and distinctive hallmark of the cyberworld is that human understanding of aspects of the world has been digitized as algorithms and outsourced materially into its own artificial medium where it automatically produces effects and insofar seems to be 'alive'.

Here, however, the focus is on those bit-strings that human beings can take in and understand and appreciate. Such messages can be either private or public. Private messages are addressed and circulated to those friends and acquaintances who are part of your own personal life-world. With such messages back and forth, friends show themselves to each other *as* who they are, thus sharing a private world. They may indulge in shows of self-presentation that are not intended for the world at large.

An important aspect of personal privacy must therefore become the protection of private messaging in the cyberworld against intrusion of all kinds, whether it be from other persons, from companies or the state. Such messaging is an aspect of the play of revealing and concealing who you are. Having control *yourself* over this who-play of disclosure and exposure is today an important issue for personal freedom which is very difficult because the cyberworld, by its very nature, enables digitized control *by others*.

Conversely, the cyberworld offers hitherto unknown potentials for presenting yourself as who you are to others in general, i.e. to the public, since an individual can post almost any digital message at some location or other in the cyberworld or send it through the cyberworld to many recipients, as with a public e-mail discussion or so-called 'tweets'. There is thus a specifically *cyber-publicness* based on the circulation of digital messages freely through the cyberworld to 'anyone who'll listen'. This cyber-public-sphere already encompasses the entire globe. *Given* the economic, technical and political prerequisites, the cyberworld is freely accessible and thus represents a public medium to be distinguished from older public media such as newspapers, journals, radio, television and film, because now *everybody* can show off who they are in the cyberworld. There is no gatekeeper to having your say, and the costs of sending out a message are minimal, even though it may have taken more or less considerable resources to make the 'message', e.g. a video. There is a new quality to cyber-publicness thanks to easy accessibility, which gives 'freedom of speech' a new meaning, although 'speech' has to be understood in a very broad sense to include all sorts of digital messages.

Circulating messages in the cyberworld is a kind of movement whose source can be an individual, an association, a company, an organization, a political party, a government agency, etc. Here we focus on individuals as the sources of messages. To be the source of a message is to spontaneously control a movement of your own life and is therefore an exercise of human freedom. Who you show yourself to be through the messages sent out into the cyberworld can be estimated and esteemed by others through the entire gamut of estimation and appreciation, which passes into negative modes such as being derided for your message or

being completely ignored, thus not having your existence as someone confirmed by the world at large. To receive an echo from others through the cyberworld requires sending messages that 'say' something to somebody. The louder the echo, the more popular the message. The more popular the message, the more it has been tailored to what people in general already understand and appreciate.

Digital messages of all kinds have to be taken in and interpreted in one way or another by others, giving rise to *differences of opinion*. This is the *controversy* generated by what a message discloses about the world. Insofar as it is open to everybody, the cyberworld is a neutral medium that lets both shallow and deep messages through.<sup>3</sup> There is always *strife* over truth, especially over the deeper truths of the world. Consumers expressing their opinions about products they have used (e.g. a stay at a certain hotel) may disclose a useful truth for other consumers that has little to do with the identities of those posting such consumer-goods' assessments. A musician posting a digital audio-file of his or her own music, by contrast, is exposing herself to an appreciative or depreciative estimation by others in her very identity *as* a musician. Sending out political messages into the cyberworld may be an endeavour to engage in controversy over the deeper justification of a political viewpoint, or it may be merely an effort to gather together like-minded supporters for a political worldview or action or specific policy decision. And so on. The artificial medium of the cyberworld offers analogously the same possibilities for exchanging or publicizing messages of all kinds as the other media do. Its easy and cheap accessibility to everybody draws praise for its so-called 'democratizing' potentials. Perhaps it will also prove to be a medium in which deeper insights arise and circulate.

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<sup>3</sup> Cf. M. Eldred 'Circulating Messages to Every Body and No Body' in *Messages and Messengers: Angeletics as an Approach to the Phenomenology of Communication* Rafael Capurro & John Holgate (eds.) Fink, Paderborn 2011 pp. 113-123.

## 5. The uneasy intermingling of cyber-publicness and commercial interests

I conclude with two proposals on how personal privacy in the cyberworld could be enhanced and how cyber-publicness could be promoted without commercial interests interfering.

Much of the ongoing debate on privacy and the internet concerns the power of commercial online social networks to collect masses of personal data on their users and mine them for commercial, mainly advertising purposes, for the sake of monetary gain. Since users must accept the terms and conditions of use of the commercial online social network, it has open slather on how to mine the data, including constructing in detail the private personal networks of users. There is no room provided for users to carry on private exchanges with friends, and hence a massive intrusion into privacy for the sake of gain. A remedy for this would be the ‘privacy capsule’ which would be legally prescribed for every commercial online social network. Each user would have *out there in the cyberworld* an *inviolable private space*, i.e. a kind of *CyberLivingRoom* — Montaigne would call it an “*arrière boutique*” —, that would be excluded altogether from surveillance by the online social network provider, who would not be allowed to surveil, store or analyze *private* personal data declared to be such by the user. These *private* data would be successively deleted every couple of days. Exceptions would be made only in the case of the authorities pursuing criminals and only after having been issued a warrant by a judge, just as in the case of other invasions of privacy for law-enforcement, such as phone-tapping.

Of course, the commercial online social network could continue to be used by users *also* as a public platform, and the *public* personal digital data-traces left behind by users could be legitimately mined by the online social network provider for commercial purposes.

A complementary proposal is that of the CyberPublicSquare or CyberAgora which would be a non-commercial, public online social network funded by taxes or a public levy, say, on an EU or UNESCO level, that would serve as a universal meeting-place for citizens and denizens to have both public and private exchanges with each other.

Only those exchanges would be deemed public that are declared to be so by the particular participating citizens themselves. Otherwise they would be automatically private by default, as in the case of the privacy capsule, with a legal prohibition of gathering, storing and mining data. The idea of the CyberAgora is analogous to that of *public broadcasting* as an alternative to commercial broadcasters, whose business models are invariably based on generating advertising revenues. Cyber-publicness in the sense of a free exchange among citizens demands a CyberPublicSquare fitting to the needs of a free civil society. It is a demand that can be asserted only from below, from civil society *itself* struggling to establish its freedom of speech in the cyberworld.