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Elements of a Culture of Privacy¹

1. Privacy is only where there is the possibility of the well-founded demand towards third parties to keep distance.

Privacy is the same as the possibility to withdraw from society for a limited period. This, however, is only possible where this freedom is granted. Thus, the normative nature of privacy must be emphasized, which demands from third parties to keep a symbolic distance. As, however, on the other hand the right to privacy may conflict with other people's freedom, it is not of absolute nature. Thus, it may be imagined that there must be giving reasons for the demand for privacy. Although this reasoning is not necessary in many cases, as it is legitimated by convention, also these conventions may be questioned.

2. Privacy requires third parties to demonstratively keep distance.

Being an instrumental act, privacy is supposed to make autonomy possible. Although in this context the demand for privacy must not be overestimated, it is necessary today to express one's respect towards the private sphere of those concerned, particularly in the face of the increase of technological possibilities of influencing and control. This is particularly true if those concerned are expected to legitimate their own actions.

Regarding the possibility to collect and store information about individuals, privacy in this respect means also that already the demand to have knowledge about an individual must be questioned. The demand for knowledge about private life indicates that the necessary distance is not kept.

3. Only individuals have a right to privacy.

If privacy as an instrumental value is supposed to make autonomous, that is self-determined and authentic action possible, in order of making it possible for people to decide about their own lives, then there also concludes from this that only individuals may demand privacy. Enterprises and organisations may have a limited right to secrecy, being similar to the demand for privacy and even serving for the protection of privacy. But still they do not have any right to privacy. Even access to personal data which have traditionally been considered private is not enough to demand privacy, even if due to other reasons we consider it legitimate.

4. The culture of privacy is a culture of the public.

The classical concept of privacy was designed while looking at the public, and the loss of this kind of public has a. o. resulted in privacy looking somewhat vague today. Even in the context of a neo-classical definition of privacy there cannot seriously be demanding a return to this kind of public, but defining the boundary between private and public is definitely a public task, the latter this way defining itself. In this context the trivialization of the private must be understood to be a positive option serving a. o. the quality assurance of the public. In this sense, private information is not worth being made public. But particularly they must not be used for

¹ Slightly changed excerpt from: Das Private unter den Rahmenbedingungen der IuK-Technologie. Wiesbaden: VS-Verlag 2005, pp. 204-207. - Translated by Mirko Wittwar.

making important decisions regarding an individual. If traditional religion, sexual orientation etc. are considered private, then this is because they do not play any role with publicly and by the public judging on an individual.

On the other hand, the question of which actions only concern an individual him/herself is a question which must be answered by everyone. It is not for every single person to say: "This is private." The decision about this is a societal task. Also, the protection of privacy is less defined by that what others might know about me but by which knowledge they are entitled to use for their decisions. And this question, the question of *which decisions may be legitimatedly made on the basis of which kind of information* is a question concerning all members of a society, as in the end the latter will decide about the kind of society we will live in in the future. Answering this question is a public, not a private matter.

5. Privacy being vague in principle is a part of its protective function.

By consciously trivializing privacy there is creating an area beyond public control. At the same time, however, this conscious trivialization makes it more difficult to define what exactly happens in the private sphere. In so far it is at first less important to decide about what is private and what is not but to demand the possibility to demand privacy.

The deliberate vagueness and triviality of the private, however, may be questioned by making the private nature of certain ways of action a topic of discussion. Here, we may be tempted to strictly and clearly define what makes the private nature of some action or situation. But such conflicts resulting from concrete situations should not result in trying to define the private in all its complexity once and forever. The debate on such problematic cases is thus an important part of defining the boundary between the private and the public. But it does not question the importance of privacy as such.