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PRIVACY AND FREEDOM: CONCEPTUALIZING RELATIONSHIPS

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This article attempts to answer how privacy relates to freedom. In today's academic and media circles, there is an ongoing discussion that privacy is being eroded. The cause of this erosion is attributed to the effects of digital technologies. In our age, there is a computer behind virtually every transaction. Due to the extensive computerization of human relations, almost everything people say or do is being recorded and stored in databases. For millennia, only a negligible part of human actions has been saved from oblivion. Now, with the help of widespread technologies, this balance has shifted in the opposite direction: little is forgotten and much is remembered. Electronic rendition of human activities increasingly reveals them to third parties, including governments, corporations, secret services, hackers, thieves, etc., who may not always have good intentions when dealing with this information. Therefore, the digital age raises the following question: Can this unprecedented loss of privacy entail an equally unparalleled loss of freedom? To answer this question, it is necessary to connect privacy with freedom and show how they relate to each other, which is the subject of this article.

In this publication, we approach privacy as an important “functional” part of freedom. We begin the analysis of their relationships by looking at different theories of privacy. In particular, we consider five such theories and highlight the relationship between privacy and the concept of “negative freedom”. Then we proceed to the analysis of connection between privacy and freedom from a historical perspective. We emphasize the role of information technologies, namely printing and photography, in the actualization of the modern concept of privacy. However, we argue that the emergence of privacy was not due to technologies alone. Instead, we suggest that it must be linked with the subjective shift in the Western culture, resulting in the recognition of the values of freedom and individuality. Following Charles Taylor, we refer to the modern ideal of authenticity and contend that privacy should be interpreted as an integral part of this ideal. We maintain that it was precisely the culture of authenticity that shifted the attitude to privacy and resulted in its acceptance as a social norm. Afterwards, we discuss the functional role of privacy in the domain of freedom. We argue that a person's behavior becomes more conformist in the presence of others and reflects social norms and expectations imposed on him by others, rather than the true motives of his behavior. Following Ferdinand David Shoeman, we indicate that there are two types of privacy, one of which is meant to protect social freedom. We refute the so-called “Goebbels argument,” according to which “people have nothing to fear if they have nothing to hide”. This reasoning, in a strange manner, has been recently adopted by companies in the technical sector. Finally, we connect privacy and politics. We argue that the distribution of privacy among members of society is akin to the distribution of wealth and power, with most of it concentrating in the elite. We also contend that democracy will be flawed if privacy is unequally distributed.

Key words: privacy, freedom, theories of privacy, authenticity, democracy, digital age.

Introduction. As the digital age develops, it compels scholars to re-evaluate and re-consider many well-established concepts. Privacy is definitely one of them. The loss of privacy resulting from the digitalization of human relations is a widely discussed topic of our age. Since the computers and smartphones entered our lives, our routine actions, customs, and behaviors, revealing intimate details about ourselves, have become increasingly visible to others. Needless to say that these parties, which include governments, banks, insurers, secret services, thieves, hackers, etc., may not always have good intentions when dealing with people's details. Their actions can change or destroy a person's life against his will or even knowledge. This means the loss of privacy simultaneously entails the loss of freedom. The scholar Shoshana Zuboff claims that we live in the age of "surveillance capitalism," which is the practice of gathering as much data as possible in order to gain insights into people's minds and control their behavior [23]. For Zuboff, the loss of privacy inevitably entails the loss of freedom.

But how exactly privacy and freedom are related? While it is legitimate to say that both parts of the equation presuppose each other, their relationship remains an ambiguous issue. Different scholars have varying opinions regarding both the definition of these concepts and how they relate to each other. However, due to the unprecedented power of digital technologies to expose human lives to others, conceptualizing their relationships is a relevant issue today. Such an analysis may be especially valid for Ukraine. As our country undergoes the digitalization reform, it is increasingly important to draw the attention of its academic community to ethical and philosophical problems arising from the comprehensive computerization of human relations.

Privacy and its theories. Privacy is one of those broad categories that are valued as much as there are difficulties in understanding them. The U. S. Supreme Court Justice Louis Brandeis pronounced it "the most comprehensive of rights and the right most valued by civilized men" [21]. Other scholars declared it "essential to democratic government," necessary for "permitting and protecting an autonomous life," "the heart of liberty", and "the beginning of freedom" [15, p. 1]. The recognition of privacy as a fundamental human right is also present in the United Nations Universal Declaration of Human Rights of 1948, which proclaims, in its Article 12, that "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation" [20]. Depending on the context, this legal provision can mean a variety of things: (a) the right to freedom of thought and conscience; (b) the right to be left alone; (c) the right to control one's own body; (d) the right to protect one's reputation; (e) the right to a family life; (f) the right to a sexuality of one's own definition, etc. [7]. As we see, these very different rights to different things are grouped under an umbrella term "privacy". This prompted Daniel J. Solove to argue that privacy is a cluster concept, or one of those concepts, which, according to Ludwig Wittgenstein, "might not have a single common characteristic; rather, they draw from a common pool of similar elements" [15, p. 9]/ In 1972, a court in England refused to recognize the right to privacy precisely because of the "lack of any clear and generally agreed definition of what privacy itself is" [15, p. 8]. However, philosophers and legal scholars endeavor to articulate the definition of privacy.

In their classical article *The Right to Privacy* (1890), which is often considered a seminal work on the issue, the American lawyers Samuel Warren and Louis Brandeis defined it simply as "the right to be let alone" [21]. The American law professor Alan F. Westin, described it as a "voluntary and temporary withdrawal of a person from the general society through physical means in a state of solitude" [17, p. 6]. According to another scholar, Charles Fried, privacy should be understood "not simply as an absence of information about us in the minds of others, rather it is the control over information we have about ourselves" [17, p. 7]. And James Rachels, the American philosopher and ethicist, defined it as "our ability to control who has access to information about us and our ability to create and maintain different sorts of relationships"

[17, p. 7]. It is evident that these approaches grasp the nature of privacy from very different standpoints. For some scholars, it is a “right”, while others see it as a “condition” or “ability.” Considering that privacy might be a cluster concept, its meaning can be better embraced not through a single definition, but rather via theoretical approaches.

The researcher Herman T. Tavani argues that there are four crucial philosophical approaches to privacy: non-intrusion, seclusion, control, and limitation [17]. The *non-intrusion* approach understands it as the right “to be let alone” or remain free from the intrusion by others. According to Tavani, this approach has two faults. First, it confuses the condition (or content) of privacy with the right to it. Second, it mixes privacy with negative freedom, so it becomes legitimate to ask if there is such a phenomenon as “privacy” at all. Tavani, however, argues that privacy and freedom should be kept apart even in the context of this approach. “Whereas liberty allows individuals to hold ideas that might be politically unpopular, it is privacy that enables them to disclose their ideas to certain individuals while concealing from others the fact that they hold those unpopular ideas,” he writes [17, p. 5].

The *seclusion* approach equates privacy with solitude. In this context, the scholar Ruth Gavison argues that a person has “perfect privacy” if that person is “completely inaccessible to others” [17, p. 5]. This approach does not confuse the condition of privacy with the right to it, but it implies that a person stranded on an uninhabitable island would have a “perfect privacy.” It is dubious, however, if such a person would enjoy his condition in any meaningful way. When one is at home with his family, most people will agree that his condition is private without necessarily being solitary.

The non-intrusion and seclusion theories deal primarily with physical privacy, while the *control* and *limitation* theories have to do primarily with informational privacy, or data protection. The scholars Cathleen Berger, Aditi Gupta, and Jonathan Jacobs claim that there is a difference between privacy and data protection. “Privacy is a broad concept invoking conditions which enable a basic foundation of human dignity and autonomy,” they argue. “Data protection is more specific – it is concerned with the ways third parties handle the information – how it is collected, processed, shared, stored and used. Privacy is the big picture and data protection is the corner of it” [7]. The control theory assumes that one has privacy if and only if that person has control over information about himself [17]. More than other approaches, this approach recognizes “the role of choice that an individual who has privacy enjoys” [17, p. 7]. However, it is unclear what kinds of information one is expected to have control over. Tavani reasonably asks: if someone notices you shopping in a certain place – an information you wanted to hide for some reason – are you expected to have control over that information? [17, p. 7]. It is also implied in this theory that one can disclose every bit of information about himself and still have privacy, which is counterintuitive. By over-emphasizing the role of choice, this approach also tends to conflate privacy with freedom.

The *limitation* theory is context-oriented and maintains that one has privacy if he can limit the information about himself in certain contexts. W. A. Parent, for example, defines privacy as a condition of “not having undocumented personal knowledge about one possessed by others” [17, p. 9]. This theory assumes that privacy is dependent on contexts and relationships and stresses the selective power of an individual to limit access to himself by others. It is implied in this theory, however, that a person’s privacy is directly proportional to the number of such secretive zones. That person would have a “perfect privacy,” if nobody had any information about him. Thus, this theory follows the same path of diluting privacy in something else, namely secrecy.

In response to the limitations of these theories, Herman J. Tavani and his co-author James H. Moor elaborated an approach, which regards privacy as a value of its own, without confusing it with freedom, solitude, or secrecy. Tavani writes that:

Privacy protection is justified, in part, because the protection it provides allows us to plan our lives in certain ways (e.g., to decide which projects we will undertake and which risks we will assume). Private situations also allow for intimacy and close personal relationships. In effect, privacy offers individuals some control over their lives, which can lead to increased autonomy and happiness. [...] Moor (1997) notes that privacy protection is also justified because privacy expresses or articulates a “core value” – viz., security – which is essential to human flourishing and is increasingly threatened in computerized societies [17, p. 12].

They have named this theory RALC, or “Restricted Access / Limited Control.” According to it, there are three main components of privacy: a. an account of the concept of privacy; b. an account of the justification of privacy; c. an account of the management of it. This theory maintains that an individual has privacy “in a situation with regard to others if in that situation the individual ... is protected from intrusion, interference, and information access by others” [17, p. 10]. The RALC theory clearly distinguished between the condition of privacy and a right to it. It also draws a line between naturally and normatively private situations. If one is alone in the woods, his situation is naturally private. This means that he has privacy in a descriptive sense, but his condition is not normatively private, because anyone can disturb him without breaking any moral or legal norm. However, if he is in his house, his condition is also normatively private, because one is expected to knock before entering. The distinction between natural and normative privacy concerns both physical and informational privacy.

A brief history of privacy. We argue that privacy should be analytically segregated from freedom, despite still being regarded as a part of it. The most straightforward way to think about the relationships between privacy and freedom is to draw this simple analogy. A battery is part of a car. The car will not run if something breaks in its battery, but the battery it is not the same thing as the car, which has many other important parts as well. In the same way, we can approach freedom and privacy. If anything threatens privacy, it simultaneously puts freedom in danger, but freedom cannot be reduced to privacy, or privacy to freedom. Instead, we should figure out what role privacy performs in the domain of freedom.

The scholar Adrienn Lukács claims that “the idea of privacy traditionally comes from the difference between ‘private’ and ‘public,’ which distinction comes from the natural need – as old as mankind – of the individual to make a distinction between himself/herself and the outer world.” [9] Neurophysiological research has shown that little children begin to think about themselves as something independent of the surrounding world around the age of two (the time they begin to recognize themselves in mirror) [1]. From then on, despite being connected to their parents, little children also occasionally seek private corners to play and be let alone. The story of Adam and Eve who were embarrassed on finding themselves naked in the presence of God is one of the earliest accounts on privacy. The Code of Hammurabi contained a paragraph against the intrusion into someone’s property. This means that privacy (in its historically limited forms) is as old as the human civilization itself. Many provisions protecting private and family life were also present in the Roman law.

In the modern history, privacy began to be appreciated around the 17th century. People often blame technologies on the loss of privacy – but, interestingly, they also played a role in its birth. Before 1600s, homes were communal, and life took place around a central fireplace, giving their inhabitants very little personal space. The chimney was a revolutionary invention. From now on, people could lock themselves in separate rooms and began to appreciate their privacy. What happened behind closed doors, stayed there [8].

From the legal standpoint, the right to privacy was not formally recognized until the late 19th century. Despite legal provisions protecting a person or property, including the U. S. Bill of Rights, are much older, they protected the life of a person, but not the intangible content of that

life, or the house, but not what was happening inside that house. Privacy, thus, should be seen as part of a larger shift towards recognizing the value of human subjectivity.

The article by Samuel Warren and Louis Brandeis *The Right to Privacy*, published in 1890, was a crucial moment in its recognition and is still being regarded as a touchstone of its modern understanding. Back then, famous Americans were angry at photographers who took pictures of their private lives. At the same time, the public opinion turned against the spread of gossips in newspapers. In the article, Warren and Brandeis reviewed the existing American law in order to find a principle that could be invoked against these alleged incursions. They substantiated the idea that the “right to life” included not only a remedy for physical interference but also “the legal value of sensations” [21]. After examining the law against slander and libel, as well as the norms on intellectual property, the authors concluded that this body of law was insufficient to protect the privacy of a person and, therefore, an entirely new legal framework was required. They wrote that “the principle which protects personal writings and any other productions of the intellect or the emotions, is the right to privacy” [21]. In 1916, Roscoe Pound, an American legal scholar, concluded that Warren and Brandeis were responsible for “nothing less than adding a chapter to our law” [4, p. 1]. Some fifteen state courts in the United States recognized the common law right to privacy directly owing to the article by these legal scholars [11, p. 203].

Privacy, freedom, and technological effects. In this overview of the history of privacy, we have already ascertained those technologies had a dual relationship with it. By detaching information from its existence “here and now”, information dissemination technologies, such as photography and printing, contributed to the diminishment of privacy, but, on the other side, they also encouraged a formal recognition of it. It is tempting to explain the birth of privacy in the modern era as a result of technologies alone, but such an approach would oversimplify the issue. Technologies indeed can pose a challenge to privacy, but they do not explain why it arose in the first place. Very few people, even among the elite, had privacy in the pre-modern era. Therefore, it is illogical to assume that technologies could have challenged something that had not already been existing, at least, in some inarticulate way. In the Middle Ages, the dominant attitude towards privacy was that it was sought mostly by wrongdoers, while virtuous people had nothing to hide and, therefore, did not need it. Such an attitude can be traced directly to the Bible, which contains many verses associating privacy with sin and wrongdoing: “Nothing is covered up that will not be revealed or hidden that will not be known. Therefore, whatever you have said in the dark shall be heard in the light, and what you have whispered in private rooms shall be proclaimed on the housetops” (Luke 12: 2–3). The condemnation of privacy did not belong only to religion, with many secular philosophers sharing the same attitude. For example, Plato, in his dialogues *The Republic* and *The Laws*, subordinated the individual to the state, in which there was no private sphere – only the public one. Thomas More banned all “lurking corners” from his Utopia whose citizens lived “in the present sight, and under the eyes of every man” [10, p. 68]. He believed that exposure would make them resort only to “noble and laudable pastimes” instead of idling out or doing something wicked. So, why the opinion about privacy has changed? Why did people come to see privacy as a prerequisite for freedom, rather than a haven of malice? Of course, some groups are denied it even in the modern age (e. g., prisoners), but since Warren and Brandeis, the public opinion has largely accepted the idea that people need privacy.

We suggest that privacy has evolved as an integral part of freedom in the modern age. Its appreciation took place in the context of a larger societal shift whereby human freedom, including the rights to self-expression, free speech, choosing one’s occupation and lifestyle, has become the paramount social value. By freedom we understand the capacity to do or say whatever one thinks is necessary for a fuller and happier life (withing legal and moral limits). It is possible to act on this capacity only if it is protected by privacy. Let us explore this societal shift.

The historians and philosophers disagree about the origin and history of this shift. For some, it began in the Renaissance, while others argue that it dates to the early 19th century. Regardless of its timeline, this shift started from above and gradually covered a wider society. In a nutshell, life for great numbers of people became individualized and was no longer handed down from one generation to the next according to immutable social norms and roles, from which it was impossible to deviate without fear, shame, or punishment. According to Charles Taylor.

Modern freedom was won by our breaking loose from older moral horizons. People used to see themselves as part of a larger order. In some cases, this was a cosmic order, a great chain of Being, in which humans figured in their proper place along with angels, heavenly bodies, and our fellow earthly creatures. This hierarchical order in the universe was reflected in the hierarchies of human society. People were often locked into a given place, a role and station that was properly theirs and from which it was almost unthinkable to deviate [19, p. 3].

Taylor calls this new ideal “authenticity” and concludes that “freedom for man means the free realization of a vocation which is largely given” [18, p. 28]. The plurality of opinions, political beliefs, religious creeds, etc., gradually established as a norm, and freedom began to be appreciated as a value. There were multiple reasons of this cultural shift. One of them was the demolition of feudalism and the rise of modern democracies, beginning with the American and French revolutions. Market economy and the rise of the bourgeoisie arguably also played a role in this process. The advent of science, rationality, and secularism, which undermined the traditional religious and mythological outlook, also should be emphasized. All these events led to a new social ideal based not on some religious or metaphysical truth, but on the idea of human personality and his / her inalienable rights to freedom, happiness, and self-fulfillment.

The greatest achievement of this cultural shift was that it liberated individuals from strict social regulations and gave them freedom to act in many domains where their behavior had once been settled by religion, customs, and traditions. But this freedom is only real when it is protected by privacy. That is why many people got angry when their private lives were exposed to the public, prompting Warren and Brandeis to write their famous apology of privacy.

It is important to highlight, though, that freedom is inseparable from the ideal of civility. When it is embodied in the institution of civility, it lays the foundation of the modern concept of citizenship. According to Anatoliy Karas, “It should be emphasized that the problem of human freedom cannot be resolved on its own basis or through reflection on itself. Civil identity is shaped by the communicative intentions of liberation from domination and violence. The desire of freedom was understood as a natural human right to be free from violence within a particular historical community” [6, p. 37]. In the pre-modern age, there was not idea of citizenship and civility, as the individual was subordinated to a community. The dissolution of the communal order with its dominant forms of behavior regulation (shame, fear, honor, blood ties. etc.) and its replacement with the modern institutions of civility and citizenship was inseparable from the discursive process of individual liberation and its ethics.

But how this modern ideal of freedom relates to privacy? Why privacy is essential to it?

Exploring the role of privacy in the domain of freedom. To answer these questions, we will begin by emphasizing the obvious. The loss of privacy inevitably entails the loss of freedom. The relationship between freedom and privacy is not bilateral, though. One can still have privacy without being free (for example, in solitary confinement or under house arrest). Back to our simple analogy, a car will not run without a battery, but even a broken car can still have a working battery. Likewise, privacy is a part of freedom, which is a broader concept. Usually, those people who are in the lower part of the dominance hierarchy have the least privacy: prisoners, little children, hospital patients, boarding school pupils, orphanage kids, etc. The boss can disturb the worker, but the worker cannot disturb the boss. This show

that freedom and privacy are proportionally related. If one parameter increases or decreases, the other follows. But correlation does not mean causation. How precisely are they related? Which parameter is the cause in this equation?

Social psychology experiments show that the range of human behavioral options dramatically decreases when people are being observed. Under observation, our actions instantly become more conformist and reflect what other people expect from us rather than what we genuinely want to do. Shame, fear, and embarrassment are very powerful motivators of behavior. The psychologist Solomon Asch famously showed in 1951 that people were more willing to give up their opinion than diverge from the group. Another prominent psychologist Stanley Milgram asked his students to break a petite norm, such as to approach a stranger on the subway, look in their eyes, and, without any explanations, ask for their seat. He found that it was extraordinary difficult to do what other people were not expecting: “The words seemed lodged in my trachea and would simply not emerge. I stood there frozen, then retreated. I was overwhelmed by paralyzing inhibition” [2, p. 208]. Only in the absence of judgmental looks, we can be ourselves and act according to our innermost thoughts and feelings. During the Bacchanalia festivities in Ancient Rome, people hid behind masks, and the ordinary controls of behavior were temporarily lifted. For a brief period, slaves behaved like patricians, and vice versa. These festivals were dedicated to Liber, the god of freedom. Today, the reverberations of these ancient cults are still present in the custom of wearing masks during carnivals.

Two types of privacy and the “Goebbels argument.” The Nazi minister of propaganda Joseph Goebbels formulated an argument against privacy, which I will henceforth call the “Goebbels argument.” “If you have nothing to hide, you have nothing to fear.” More recently, Eric Schmidt, the former CEO of Google, re-formulated this argument in the following version: “When you do something that you don’t want other people to know, maybe you should stop doing it in the first place?” [3]. Since this argument has become popular, let us establish what is wrong with this reasoning.

At first, not everything that is done privately is bad or worthy of other people’s knowledge. Ferdinand David Shoeman argues that there are two types of social norms that structure privacy. The first norms “restrict access of others to an individual in a certain domain where the individual is accorded wide discretion concerning how to behave in this domain” [13, p. 15]. This sort of privacy promotes “individuality, the integrity of various spheres of life, and various associations with people” [13, p. 15]. It is meant to “protect social freedom by limiting scrutiny by others and the control some of them have over our lives” [13, p. 7]. When, for example, I meet with my friends, I do not want anyone else to follow us – but not because we do something bad, but simply because I will not be able to behave as I want in the presence of unwanted intruders. The second norms “restrict access of others to an individual where the behavior carried on in private is rigidly defined by social norms and affords little discretion” [13, p. 15]. This type of privacy is not meant to enhance self-expression or individuality, but it is a form of social control. It is often meant to “express respect for human dignity by protecting us from public associations with the beastly, the unclean” [13, p. 17]. According to Shoeman, one type of privacy can evolve into another. At one time, marital behavior was almost completely ritualized, giving spouses little freedom regarding how to act to one another. However, many regulations gradually were lifted, and spouses obtained more freedom in this domain. Therefore, today’s marriage is protected by the first type of privacy rather than the second. Since this privacy is meant to give us freedom, not separate us from society, it explains why not everything that happens in a family (for example, domestic violence or child abuse) is protected by it. The public can (and should) rightfully interfere with someone’s private domain if the actions committed there threaten someone’s freedom, dignity, or even life.

The “Goebbels argument” assumes that whatever we conceal from others is bad. Though sometimes it indeed is true, it should not obscure the fact that we value privacy, because it secures our existence as free beings. Doing things that we do not want other people to know does not necessarily mean that we should stop doing them in the first place. However, this means that once we completely expose ourselves to others, we will stop being free.

The second objection to the “Goebbels argument” can be formulated as follows: Will you really be free if you render yourself sufficiently innocent to those who have political power? Democracy needs dissent, which can mature only in privacy. The measure of the goodness of society is not how it treats its compliant and obedient citizens, but those who rebel and resist orthodoxy. “Those who do not move, do not notice their chains,” said Rosa Luxemburg. To put this in the modern context, if you protect your online privacy by VPN, and your government treats you like a potential terrorist, make sure that you really live in a free country.

Privacy and freedom in a political context. Since we have already begun to consider privacy from a political perspective, let us delve deeper into this issue. According to the former president of Brasil Dilma Rousseff, privacy is essential for democracy: “If there is no right to privacy, there can be no true freedom of expression and opinion, and therefore no democracy” [12]. And the U. S. Justice William O’Doughlas said that privacy lies at the core of democracy: “We deal with a right to privacy older than the Bill of Rights, older than our political parties, older than our school system” [5]. So, why does privacy matter so much for democracy? First, if we are right that our behavior changes in the presence of others, we are a hundred times more right if surveillance is carried out by the state, which has “the monopoly of the legitimate use of physical force within a given territory” [22, p. 77]. While other people can compel us to change our behavior because of internalized social norms, only the state can legally use force to subdue us. Therefore, while it is important to have privacy in interpersonal relations, it is even more important to have it in the relationships with the state authorities. This does not mean that law enforcement bodies should not perform their functions and collect intelligence, but their activity should be strictly authorized by law. Second, privacy is essential for an individual’s self-expression in the political domain, especially during elections. For this reason, the voting booth must be a sanctuary of privacy, while the counting of votes, on the contrary, should be as transparent as possible. Third, like wealth and power, privacy is unevenly distributed among members of society. The people on top usually have much more of it than those in the bottom. One may counter-argue, of course, that the elites are usually more public, so they need more privacy to balance the heightened public interest. Note, however, how little is known about those people who wield real political power in Ukraine – the oligarchs – and how much information, including highly personal one, can be obtained about an average Ukrainian citizen. However, democracy pre-supposes equality. While it values the middle class and is opposed to the concentration of money and power in the unaccountable elite, there should be a similar equilibrium in the distribution of privacy: people’s private lives should be protected, but there also should be a degree of transparency regarding their professional and financial integrity. On the other hand, democracy will be inevitably flawed, and its institutions reduced to a mere façade, if a tiny group of the most powerful people is completely screened away from the public scrutiny, while the citizens, on their part, are fully visible to that group. Fourth, it is a precarious confusion to think that the task of protecting a person’s privacy belongs exclusively to that person, especially if it is encroached not by a nasty neighbor, but by forces outside human control, such as the government, big corporations, foreign countries, or society at large. If the equilibrium of privacy shifts, democracy will inevitably start to malfunction. Individual actions, such as installing VPNs, respond to the symptom, but not to the underlying cause of the problem. Instead, if there is a challenge to privacy at a public level, political action must be taken to counter it. As the American scholar Shoshana Zuboff has put it, “privacy is not private” [24].

Conclusions. As we said in the beginning, the issue of privacy and freedom has become very topical in the digital age. According to the American lawyer Nicholas Martino, “Every American had a measure of privacy simply because there were limits to what technologies could do in effect to invade their privacy” [16]. Now invading somebody’s privacy, in his words, is “pretty much a piece of cake” [16]. Thanks to the widespread use of digital devices, almost everything we do online is recorded and stored somewhere. In 1986, only 1% of world’s information was digitalized, now it is 98% [14]. While in the past almost everything people ever said or did disappeared into nothingness, now it increasingly becomes recordable, indexable, browsable, searchable, and ready for analysis. This causes an unprecedented invasion of privacy and, eventually, freedom, because the ultimate purpose of knowledge obtained through this invasion is not just to understand people, but also to control them.

In today’s academic and media circles, there is an ongoing discussion about the erosion of privacy. However, little is said about the result of this erosion, namely the loss of freedom. Moreover, we arguably live in the age of profound liberation. The dominant narrative of our time is about empowerment, giving more rights and freedoms, especially to historically disadvantaged social groups. However, history is often ambiguous and seems to be subject to the law of communicating vessels. If something is added in one place, it is often reduced in another. Therefore, our time can also herald the diminishment of freedom, which happens along the invasion of privacy. In our subsequent publications, we will attempt to answer how this can happen in the context of the digital society. However, for such an analysis to happen, it is necessary first to connect privacy with freedom. We hope that this article has shed some light on this connection.

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ПРИВАТНІСТЬ І СВОБОДА: КОНЦЕПТУАЛІЗАЦІЯ ВЗАЄМОВІДНОСИН

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У статті розглянуто взаємозв'язок між приватністю і свободою. У сучасних академічних і медійних колах часто обговорюється втрата приватності як феномен, пов'язаний із впливом цифрових комунікаційних технологій. Людські взаємодії дедалі частіше стають опосередковані комп'ютерами. Унаслідок всебічної цифровізації людського життя величезні масиви інформації зберігаються у базах даних і стають доступними для аналізу. У минулому лише невелика частина людських висловлювань і вчинків була врятована від забуття. Сьогодні ж цей баланс змістився у протилежний бік: ми майже все фіксуємо і дуже мало забуваємо. Інформація, передана за допомогою електронних трансакцій, часто потрапляє в руки сторонніх агентів, зокрема урядів, корпорацій, спецслужб, хакерів, викрадачів даних і т. д., які часто використовують її не з добрими намірами. Отже, у цифрову епоху стає актуальним запитання: чи ця безпрецедентна втрата приватності може зумовити таку ж безпрецедентну втрату свободи? Щоб відповісти на нього, потрібно спершу пов'язати приватність зі свободою і охарактеризувати взаємозв'язки між цими поняттями і феноменами – це є метою пропонованої статті.

Ми розглядаємо приватність як важливий «функціональний» аспект свободи і розпочинаємо цей розгляд із окреслення кількох теоретичних підходів до приватності. Зокрема, у статті проаналізовано п'ять підходів і з'ясовано зв'язок приватності із «негативною» концепцією свободи. Ми також інтерпретуємо цей взаємозв'язок з історичної перспективи і розкриваємо роль інформаційних технологій, зокрема друкування і фотографії, у виробленні юридичної концепції приватності наприкінці 19 століття. Водночас ми доводимо, що появу цієї концепції не можна пояснювати лише ефектами інформаційних технологій. Натомість її артикуляція відбулася унаслідок ширшої зміни у західній культурі, яка зумовила визнання цінностей свободи та індивідуальності. Грунтуючись на ідеях Чарльза Тейлора, ми називаємо ідеал, який виник унаслідок цієї зміни, «автентичністю» і трактуємо приватність як його невід'ємну частину. Саме спрямування до автентичності змінило ставлення до приватності і зумовило її прийняття як соціальної норми. Надалі ми аналізуємо функціональну роль приватності у сфері свободи. Ми стверджуємо, що поведінка індивіда стає набагато більш конформістською у присутності інших людей й відображає радше накладені на нього соціальні норми і очікування, аніж його власні автентичні потреби і мотиви. Посилаючись на американського науковця Фердинанда Девіда Шумана, ми розрізняємо два типи приватності, один з яких призначений саме для захисту соціальної свободи. Ми спростовуємо так званий «аргумент Геббельса», згідно з яким «людям немає чого боятись, якщо їм немає чого приховувати». Це міркування в дещо зміненій формі повторюють і окремі представники сучасного технічного сектору. Наприкінці ми з'ясовуємо роль приватності в політичній площині і стверджуємо, що вона нерівно розподілена між членами суспільства, що нагадує розподіл багатства і влади. Ця нерівність зі свого боку негативно впливає на функціонування демократії.

Ключові слова: приватність, свобода, теорії приватного життя, автентичність, демократія, цифровий вік.