

There can be little doubt that the concepts of anonymity and privacy are related in important ways, though it is not easy to state their exact connection. The task is rendered more difficult by the need to work with precise definitions of each, since if one notion is faulty any treatment of the relation between the two may likewise prove flawed. In what follows I hope first to shed some light on both, and then to show that with respect to most types of information anonymity is not a sufficient condition for the possession of privacy. The normative implications of this will then be explored in the context of the publication of patient case studies in clinical psychology.

Looking first at the definition of anonymity, it is sometimes thought to be linked essentially to naming, such that one is anonymous if and only if one's full name is unknown. But an over-emphasis on naming as the condition for anonymity is misleading. Wallace argues that anonymity is instead a form of non-identifiability which may or may not have to do with naming. She writes that "anonymity is a kind of relation between an anonymous person and others, where the former is known only through a trait or traits which are not coordinatable with other traits such as to enable identification of the person as a whole." (Wallace, 1999) This definition accounts for those cases in which knowledge of a person's name is not sufficient to render him identifiable. If a new teacher reading out the roll-call has three John Smiths in his class, he will need to establish some other means of distinguishing between them. Wallace's view that anonymity is fundamentally relational also distinguishes it from the simple state of being unknown. A hermit living in isolation may not have any social contacts, but this does not render him anonymous. As she puts it, "anonymity obtains when it is known that someone (or some people) exists but who it is (or they are) is unknown - the action or trait in virtue of which

someone is known to exist is not coordinatable with other traits of the person(s).” (Wallace, 1999) Anonymity is never total, or it ceases to be anonymity. Some fact about a person must be known, if only his existence, in order for him to be anonymous.

It should also be observed that the conditions for anonymity are contextually determined, since what counts as identification is so determined (Davis, *Identification*, 2005). A person walking through a shopping mall is anonymous to strangers passing by, but not to a friend or coworker he may happen to run into. In the former case, visual appearance is not sufficient to identify the individual, and in the latter it is. In other contexts the name might be known but might not be sufficiently coordinated with other traits. Knowing a person’s name and address will not help one to pick him out at a party if nothing is known of his appearance. A corollary of this is that no single piece of information about a person is inherently identifying, such that it would identify him in all contexts. Even knowledge of a unique attribute will not necessarily do the job. Paul Martin is the current prime minister of Canada, but someone knowing that fact, and knowing that there can only be one current prime minister of Canada, will not necessarily be able to pick him out in a group photo of the G8 leaders. According to Wallace, what is needed is information that can be coordinated with other information such that the person as a whole can be identified. A single piece of information might be enough to render traceable enough additional traits to identify the person, but it would not do so by itself. (I should point out here that I ought perhaps to devote further discussion to Wallace’s notion of a ‘person as a whole,’ but due to concerns for space I will refrain from doing so. Suffice it to say that I have some concerns about her use of the phrase, which tends to complicate her understanding of anonymity, and about the particular ontological notions which lie behind it. The topic warrants a more

extended treatment at a later date.)

For the most part Wallace's analysis is convincing. A possible difficulty is present, however, in her basing anonymity on the non-coordinatability of traits rather than the non-coordination of traits. To illustrate, a participant in Alcoholics Anonymous is anonymous in that context because the information he reveals in the meeting, including his appearance, will not be coordinated with other traits, like his full name, such as to identify him as a whole. It is not that they *cannot* be so coordinated. The participant is aware that theoretically another member could record information about him and subsequently find out his full identity, and in an age of information technology, perhaps fairly quickly. What preserves anonymity in this context is not that the participants *cannot* be identified, but that they *are not* identified. In addition, there is an element of trust involved which, while not an essential element of anonymity per se, is not merely tangential in a therapeutic setting.

Take another example. Imagine a hidden police camera set up in a public square in order to keep an eye on suspicious activity. The thousands of people who daily walk through the square are captured by the camera and seen by the several very bored officers whose job it is to monitor the square. Are the people anonymous with respect to the officers? According to Wallace's definition they are, provided that the officers cannot coordinate the physical appearances caught on tape with other traits such that the people are identifiable. Now imagine that the officers have just that ability. Assume that data from iris scans are now included in the information on one's driver's license and health card. The cameras taping the square are extremely sensitive, such that they capture the full image of the eyes of each passerby through the square. Anytime they wish, the officers can hit a button that will coordinate the visual image

captured by the camera with the database of iris-scan records. Thus they have the ability to instantly learn the full name, address, and other information of each person passing through the square. Their traits are now perfectly coordinatable, and according to Wallace's definition the people in the square are no longer anonymous. But imagine that our bored officers are also lazy, and opt never to use their iris-coordination technology. If Wallace's definition is true, the people in the square are in a very odd state. They were anonymous before the iris-scan technology was connected to the cameras, and are no longer anonymous now that the technology is set up. This is the case despite the fact that the technology is never used. So even though the objective epistemic condition of the people remains the same throughout, with their full identities unknown to the officers, they somehow cease to be anonymous once the scan is plugged in to the camera. This is implausible. I would submit instead that the people lose their anonymity only upon the actual coordinating of their traits, not upon their mere coordinatability. With this small proviso, Wallace's definition is quite acceptable.

Turning now to privacy, it should be noted that the literature on the conceptual analysis of privacy is far more voluminous than that on anonymity, and the debate over its exact definition continues. Part of the difficulty revolves around the different shades of meaning which the term 'privacy' tends to take on. In discussing the difficulties that have arisen in attempting a thorough formulation, McLean writes that "definitions of privacy should distinguish privacy from related concepts with which it overlaps, such as solitude, secrecy, autonomy, liberty, and being let alone. However, no definition of privacy clearly escapes from entanglement with other concepts. Defined as a limitation on informational access, privacy resembles secrecy. Defined as a limitation on physical or attentional access, it resembles

solitude or being let alone.” (McLean, 1995) As a solution he proposes four different types of privacy, distinguished according to function. The first, access-control privacy, refers to one’s control over the knowledge that others have about oneself and the ability of others to enter into one’s personal space. Controversies over surveillance technology have to do with this category of privacy. There is also room-to-grow privacy, where one is left alone to pursue certain types of psychological, moral, and educational development which can only be obtained when one is alone; safety-valve privacy, where one is able to put off the various public roles assumed during the day and simply be oneself; and respect privacy, which involves regard for the personal dignity of the individual.

In proposing these various forms of privacy McLean may well have struck on a helpful model to classify the various uses of the term in everyday speech, as it does tend to take on the different senses which he puts forward. However, if the goal is to reach clarity on the essential elements of the concept, some pruning will be required. It seems possible to subsume the latter three categories into the first, as access-control privacy appears to be the necessary condition for the presence of the others. One cannot have room-to-grow or safety-valve privacy if one is never in control of what others know about oneself. Respect-privacy seems likewise dependent on access-control, given the legitimate concerns over dignity and autonomy that are raised when the latter is violated. It would thus be more parsimonious to think of these latter three not as different types of privacy but rather as different uses to which access-control privacy may be put. It also seems possible to reduce further the sphere of meaning attributed to access-control privacy. McLean takes it as referring to control over access to oneself or to information about oneself. The former, however, may be included in the latter, such that privacy will always

involve access to information. Personal access to an individual would then merely be one of the means by which information could be attained.

However, while it seems correct to think of privacy in terms of information, there are problems with defining it as a matter of *control* over information. The classic control-based definition is provided by Westin, who writes that privacy is “the claim of individuals, groups, or institutions to determine for themselves when, how, and to what extent information about them is communicated to others.” (Westin, 1967) It has, however, been pointed out that control may be lost even while privacy is maintained. Thompson has shown this in her example of a neighbour possessing high-tech surveillance equipment that he never uses. One loses control over information access as soon as the neighbour has the equipment, yet one never loses privacy so long as the equipment sits unused. If control may be lost while privacy is maintained, privacy cannot be a matter of control. (Thompson, 1975) To further support that conclusion, Parent observes the converse point that privacy can be lost even while control is maintained. He asks one to “consider the example of a person who voluntarily divulges all sorts of intimate, personal, and undocumented information about herself to a friend. She is doubtless exercising control, in a paradigm sense of the term, over personal information about herself as well as over (cognitive) access to herself. But we would not and should not say that in doing so she is preserving or protecting her privacy. On the contrary, she is voluntarily relinquishing much of her privacy.” (Parent, 1983) These examples make it clear that privacy is not essentially linked to control. Parent’s case also brings out the important distinction between a loss and a violation of privacy; only the latter should be seen as having a normative connotation. Privacy can be lost without any moral wrong having occurred. If however it is lost by immoral means or in an unethical

fashion a violation of privacy has occurred. Note that ‘immoral means’ should be understood broadly. I do not intend merely the means of *obtaining* the information, as there are instances in which the information may be obtained legitimately but its use still constitutes an unethical form of privacy loss. If a person comes across someone’s diary in the street, it is not immoral to pick up the book and see what it is or who it belongs to. That information is obtained morally. But once one realizes that it is a diary, it is certainly immoral to take it home and read it. Because the diary author has not given consent to the reading, the information gained thereby has been gained by immoral means, even if the manner in which the diary itself was initially obtained is licit.

Parent provides his own account of privacy, writing that “privacy is the condition of not having undocumented personal knowledge about one possessed by others.” (Parent, 1983) Thus it is not a matter of controlling what others know, but rather of what they actually do know. One has privacy with respect to some knowledge, or information, if and only if it is of a personal nature, is undocumented (ie. is not something which can be found in the public record), and is unknown. By ‘personal’ information Parent means “facts about a person which most individuals in a given society at a given time do not want widely known about themselves.” (Parent, 1983) He goes on to broaden this notion to include facts about which an individual is particularly sensitive and does not want widely known, even if most people in his society would not be sensitive about it. He therefore takes into account both different cultural standards as to what constitutes personal information, and personal idiosyncracies in this regard. And while he does not state it explicitly, his position seems to imply that no information is inherently personal, but that it becomes so within the context of social norms and individual desires.

While superior to Westin's, Parent's account has some difficulties of its own. Davis shows that Parent should define privacy not in terms of knowledge but rather justified belief, and also reaffirms Westin's point that privacy can be possessed and lost not only by individuals but also by groups and institutions (Davis, *Privacy*, 2004). Further, Matheson has pointed to difficulties with Parent's documentation proviso, arguing that one can have privacy with respect even to documented information, provided that the information is no longer known (Matheson, 2004). In addition, I would argue that the documentation proviso should be understood more broadly in terms of accessibility. The key thing is not whether the information is documented but whether it is readily and publicly accessible, whether by documentation or some other means.

Moreover, Parent's analysis includes a subtle ambiguity, one involving the identification of the person to whom the information pertains. This will bring us to my central point about the link between privacy and anonymity. Again, Parent defines privacy as "the condition of not having undocumented personal knowledge about one possessed by others." But there are at least two senses in which personal information about one can be possessed by others. In one sense, the information is about him and is known to be *about him*. In the other, the information is known but is not known to be about *him* specifically. That is, he is unidentified with respect to it, or anonymous; the information has not been coordinated with other traits sufficient to identify the person. It is clear that if the former sense pertains, where the information is both known and connected to the individual, he does not possess privacy with respect to that information. But what about the latter sense? If the information is known but the individual to whom it pertains is not, does that automatically mean that he has privacy with respect to the information, or is it

possible that privacy can be lost even in that case? That is, does anonymity always guarantee privacy? Parent's definition provides no answer to this. Nor does Westin's, which does not specify whether the control over information that he takes to be the necessary and sufficient condition for privacy requires a control over information as it is linked to identity, or simply over information, whether connected to an identified person or not.

I maintain that anonymity is a sufficient condition for the possession of privacy, but only if that privacy occurs with respect to a certain type of information, namely identifying information. I will elaborate on that point shortly; but what I wish to emphasize now is that anonymity is not a sufficient condition for the possession of privacy with respect to other forms of information. The implication of this proposition is that one's privacy can be lost even though one's anonymity is preserved. Intimate facts about a person can be revealed without it being revealed that they are about that specific person, and this will constitute a loss, and in some contexts a violation, of privacy.

Consider the following: you are at a Halloween party where everyone is in costume and you have no idea who is who. In fact, you are in a distant city where you hardly know anyone anyway. During the course of the evening you see Zorro and the Catwoman having an intimate conversation, and you hide behind a piece of furniture and eavesdrop on what they are saying. Have you violated their privacy? I believe so, even if it is the case that you do not know who they are and never will.

Or consider the theft of a diary. Say that for the past twenty years your friend has faithfully kept a diary recording the most intimate secrets of his thoughts and feelings. You steal his diary and read it cover to cover. This is surely a paradigm case of privacy violation. Now

imagine that you make a copy of the diary, leaving out your friend's name and inserting minor changes here and there to other names and dates so that all identifying details are removed. You then translate the diary and submit it for publication to a small publishing firm in Peru, where it is released to great acclaim. Because you have done such a thorough job with the rewrite and because it has been published in a faraway land and in a foreign tongue, no one can possibly connect your friend to the new Peruvian bestseller, and he never learns of it. It is clear again that he has suffered a loss and a violation of privacy upon your reading the diary. I would submit that he suffers a similar loss and violation upon the work's publication, even though he is anonymous with respect to it. If you reveal intimate facts about your friend without his consent, that is a violation of his privacy irrespective of whether you reveal that they are facts about *him*.

Here I should expand on my earlier point that anonymity is a sufficient condition for privacy with respect to a certain type of information. It is misleading to say, without proviso, that anonymity is not a sufficient condition for privacy. In certain contexts it is, but only with respect to privacy about identifying information. There are some situations in which one's identity becomes personal information, information about which most people in a society would not want others, or at least certain others, to know. One might think, for example, of living in a fascist state and being stopped by the secret police. There, it might be crucially important that they not discover one's identity, and one would have eminent justification for desiring that it remain unknown to them. In such cases, where identifying information is a type of personal information, anonymity becomes a type of privacy, namely privacy with respect to identifying facts. Most of the time, however, what people consider personal information is not specifically identifying information, or at least it is not personal *because* it is identifying.

While conceptual analysis is of course valuable in itself, I would not want to leave the impression that the previous discussion has no practical application. In fact, the notion that anonymity does not always secure privacy has a number of ethical implications. I will here briefly address a particularly interesting one concerning the publication of case studies in the context of clinical psychology. Wharton discusses this issue, writing that “in the past the attitude of many analysts has been that as long as the patient was anonymous (that is, not recognizable to anyone who knew them) and was unlikely to read what had been written about them, there was no problem. I am not sure that we can get away with that now. Our ethical sensitivity has become more sophisticated.” (Wharton, 2005) Though she makes no explicit mention of privacy, instead conceptualizing the issues in terms of confidentiality and trust between therapist and patient, I suspect that the growing awareness of the right to privacy over the last thirty years probably accounts for some of the increased sensitivity of which she writes. The problem she discusses is a difficult one, and privacy is not the only right or value which must be considered. It is not simply a question of revealing personal information about a patient, as the unique circumstances of academic publication come into play as well. It is one thing for a therapist to discuss a patient with colleagues in order to get some alternate opinions about a difficult case. Of course, anonymity should be preserved here, but if there is any loss of privacy it seems clear that it is done for the patient’s benefit and with his good in view. It may be a loss of privacy, but it is not a violation. In publishing facts about a patient, it is not solely the patient’s good that is aimed at. It is also the advancement of psychological knowledge, and thus the good of future patients, and Wharton makes it clear that the dissemination of accurate case studies is an important part of that advancement. In addition, she points out that the career and prestige of the

analyst may be a motivating factor for publication, throwing another complicating factor into the discussion.

How then should this matter be dealt with so as to preserve the privacy of the patient while not grinding clinically-relevant academic discussion to a halt? Wharton discusses several possible solutions. One is essentially that taken by our diary-thief, that is, to change enough details in the case as to ensure that the patient could not possibly be identified; another is for the analyst to create fictional patients out of the composite of several different case studies. But Wharton observes that “these solutions do not of course really meet the ethical point about using the patient’s material, and in addition they raise a question about the authenticity of the material itself, which in a detailed account of clinical interaction is critical.” (Wharton, 2005) Another interesting solution is for all clinical case-studies to be published anonymously, since the biggest potentially identifying factor in the studies is the analyst himself. Identify who the therapist is, and one might be able to then learn who his patients are and which ones are written about. Leave the name of the analyst blank and known only to the journal’s editorial board, and anonymity is more closely safeguarded. However, this move could itself create problems for clinical psychology as a discipline; Wharton questions how much work would be published if it had to be done with no credit for the author. And even if that strategy were adopted, it would still not solve the question of whether publication violates the patient’s right to privacy. Assume that our diary-thief remained anonymous as well as his victim, being known only to a few people in the Peruvian publishing house, and no change is made to the ethical status of his actions, despite the fact that his victim has an additional safeguard against identification.

The solution Wharton advocates is to seek the patient’s permission prior to publication.

This would certainly address any concerns over the patient's right to privacy being violated. As Parent observed, privacy with respect to certain information can be relinquished and therefore lost without it being violated. However, Wharton notes that it is not a perfect solution, and that practical difficulties can stand in the way of its implementation, including the potentially harmful effect on the therapeutic process that such a request for permission might have. One might argue that a patient gives implicit consent to publication simply by seeking counseling from a professional, since he should be aware that many clinical practitioners also work as researchers in the field. However, since it is questionable whether a high degree of awareness really exists on this point, the notion of implicit consent will likely not work here. As such, I tend to agree with Wharton that consent is the best way to handle the dilemma, though I also agree that it is not a perfect solution and that further inquiry is warranted.

If I am correct in thinking that, with respect to most types of information, anonymity is not a sufficient condition for the possession of privacy, a number of areas in which the contrary seems to be commonly assumed become worthy of further examination. Some of these include: the release of sensitive information in the context of criminal trials where the identities of the parties involved are kept under a publication ban; various practices in internet chat rooms, where pseudonyms are common; and some qualitative field research in sociology, where subjects remain anonymous but may still undergo a loss of privacy. These areas ought to be given additional ethical scrutiny with the above notions of anonymity and privacy kept in mind.

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