

Manifesto

for the Future of Privacy

The loss of millions of lives was the greatest tragedy of the COVID-19 pandemic, and the urgency with which the virus needed to be fought, especially given its fast spread and unknown origin, justified the curtailing of human rights for a certain amount of time. This “virological imperative” (Gabriel 2020), which represented a trade-off between public health and other values (Dennis et al. 2022), had repercussions for the right to privacy, namely, decisional, local, and informational privacy (Roessler 2005). These dimensions, which have been discussed previously under different categories and terms, were affected in different ways and with varying intensity. The dimensions are interrelated, and there is social value in protecting each of them (Solove 2015).

In the current information age, the informational dimension (e.g., data protection) is salient. Early in the pandemic, the potential for violation became apparent with discussions about tracing apps and the search for “technological solutions” for stopping the spread of the virus. In countries such as Germany, it was feared that the tracing apps might be used in the long run as surveillance tools against citizens. This was one issue that was handled differently across cultures and states (e.g., Habich-Sobiegalla & Kostka 2022). While the data protection implications of COVID-19 apps have been repeatedly investigated (Gonzalez-Fuster and Hildebrandt 2020), other aspects of privacy have received less public and scientific attention. In the discussion on what the future of privacy should look like, the issues discussed in this manifesto need to be considered. Among them are *inter alia*: being forced to stay at home, not having a dedicated space for work as a “room of one’s own” (Woolf 2000), nor for leisure, not being able to choose freely with whom to spend one’s time (Buhr 2020), (intellectual) property rights of vaccines, increased domestic violence, and lack of access to medical care and contraception for women. These topics have put into focus questions of the privacy debate many people conceived of as having been discussed—or even solved—decades ago.

What we saw, *inter alia*, within the pandemic “state of exception” (Schmitt 1921, Giorgio Agamben 2003) and what often becomes visible during world-changing events was a new manifestation of public-private relationships. Some actors, especially private corporations, suggested that technology could solve the problems posed by the virus. Yet, striving for this kind of “tech-solutionism” (Lyon 2022)—which was evident,

for instance, in the hope put into tracing apps—was not the only factor that put privacy at stake. The immediate and obligatory transition to online meeting software for work, educational, and leisure activities and sometimes even for medical purposes (e.g., doctor appointments via videoconferencing software) gave corporations in this field an even greater influence and view into formerly private spaces. Given the impossibility of opting out (Véliz 2020), the revealing of living situations and private information about single persons or whole families, especially children, led to an even greater power to spy on citizens as customers, sell their data, and try to influence their behavior, for which the term “surveillance capitalism” has been coined already before the pandemic (Zuboff 2019).

Reports of phenomena such as “Zoom-bombing”, meaning the disturbance of an online meeting by an unwanted participant, or even sexual harassment in online meetings or social media platforms (Adkins) have emphasized that privacy is in danger not only by corporations but also by criminals and fellow citizens, possibly even colleagues. In addition, the increase of cyber grooming has made especially clear that children and teenagers need to be protected when using the internet. On the other hand, some children, even in industrial nations, were cut off from their schooling because they did not have internet access. Everyone but most crucially young people had to live with loneliness, isolation and angst as well as increased media consumption and the lack of structure that used to give their life stability. As pointed out for example by the German Ethikrat (2022), children’s and young people’s mental health was severely affected.

Other vulnerable populations were hit hard as well by the pandemic, even if not necessarily in the informational sense of privacy but with regard to questions of local and decisional privacy. For example, decisional and local privacy was affected since persons were no longer allowed to choose freely where to move and when. For those with limited living space, the restrictions were worse. In this regard, the COVID-19 pandemic has drawn attention to the fact that marginalized groups (e.g., people experiencing poverty or homelessness) face challenges caused by their precarious living situations. For instance, homeless people did not have a home to stay in when staying at home was advised—and ordered—by governments. Families living in small homes were forced to remain inside these physically limited spaces, creating a very stressful situation for everyone—and highlighting that privacy is often a luxury (Mönig 2020). Moreover, the vulnerability of certain population groups became more visible, such as residents of nursing homes. Privacy intrusions are normal for healthcare reasons in hospitals and nursing homes (Allen 1988). During the pandemic, cases emerged where persons who lived together in residential homes and were cared for by the same staff members died of COVID-19 “waves”.

In addition, decisional privacy, including the right to bodily integrity, was also violated. Victims of (sexualized) domestic violence were deprived of the potential option to escape their abusers. The restrictions also meant that victims had no opportunities to confide in teachers or other adults; and teachers, professionals, or volunteers could not see evidence of domestic violence, let alone offer to help. Thus, being forced to stay at home not only posed a burden but even put lives and safety at risk. As feminists pointed out in the 1970s, homes are not safe harbors for everyone in every situation (e.g., Wagner De Cew 2015).

This diverse array of instances in which private lives and personal choices were impacted by the COVID-19 pandemic demonstrates the complexity of notions of “privacy” and the different aspects of individual and societal life it can be understood to concern.

Being aware that privacy is not the only problem that was caused and not the only human right that became vulnerable during the pandemic (Nat Mach Intell 2022) and that the right to life and equal distribution of resources and goods such as hospital beds, ventilators, or vaccines have worried people and meant life-or-death decisions worldwide;

bearing in mind that some changes, such as the shift to virtual meetings or conferences as a new norm, might have had advantages, including a reduction in commuting time and CO₂ emissions, or might have opened up opportunities such as for persons with disabilities to take part in events they otherwise could not have attended;

acknowledging that to a certain extent it is necessary to collect data on human health in order to understand and fight diseases (cf. WHO 2022), the participants of the symposium “Rethinking Privacy after this Pandemic” appeal to policy makers and companies alike to consider the following points in their post-pandemic decision-making about privacy rights, including the development and use of technological products, in order to be prepared for future pandemics and other emergencies:

- **Protect privacy and the other values at the foundation of our liberal-democratic systems.** Public health is a liberal value. It brings net benefit to not just society but also to individuals. While curtailments of human rights including privacy have been necessary to fight the virus, they should only remain in force for a limited amount of time—as already dictated in certain legislations. The use of technological solutions with surveillance potential should be controlled and strictly regulated. Measurements should be evidence-based and evaluated regularly. Finally, governments and public actors should be aware of lobbying attempts by companies and other private actors.
- **Protect our data.** The pandemic made digital technologies even more indispensable than they were before. Several companies profited from this and approached governments in order to put their own products and services into focus for fighting the pandemic. Under these circumstances, it needs to be highlighted that privacy is not a commodity. It should not be treated as a good that can be traded for money or for presumably free online services. Moreover, the “state of exception” should not be exploited in order to collect ever more data.
- **Regulate work and institutional surveillance.** During the pandemic, employees and students were forced to use the technology that their employers and institutions provided. This gave persons and institutions that already had power over others the opportunity to exercise additional control in formerly free spaces. Surveillance of remote work and remote teaching therefore should be regulated more strictly in order to prevent employers from spying on their

employees, or schools on their students, in unjustified and disproportional ways or to an unacceptable extent.

- **Regulate and prosecute cyber harassment and abuse.** With everyday activities of work, education, and leisure taking place via digital platforms for the sake of physical distancing, unseen forms and increasing amounts of cyber harassment have occurred. Since children are particularly exposed and vulnerable in this context, the protection of children against cyber bullying by peers as well as cyber grooming and sexual harassment or abuse by adults online needs to be a priority. In some cases, simple technical measures like password protection for online meetings might be sufficient (e.g., to protect a call against Zoom-bombing). However, appropriate regulations and enforcement will be needed, for instance, if participants in the call are being harassed by fellow participants such as colleagues or even their boss.
- **Protect children online.** Children as many other population groups spent an increased amount of time using the internet due to lockdowns for leisure as well as for school. In accordance with the European Better Internet for Children Act (BIK+) (European Commission 2022) actions need to be taken through a combination of legal and technical measures and online literacy trainings for parents, teachers and children alike.
- **Protect vulnerable populations and provide shelter for the homeless.** Shelters should be designed such that in the event of a new pandemic or similar situation, they do not become a health risk. Homeless individuals should be provided with living spaces and money, for example, through social housing projects (cf. the EU's goal to eliminate homelessness by 2030). Further, consideration should be given to elderly people and people with disabilities in retirement or nursing homes and similar institutions. Since these are total institutions as Goffman (1961) defined them, their residents should be better protected in the first place and more personnel should be hired for better ratios of staff to residents/patients. Providing more funding for these institutions will in turn help protecting public health in the future and at the same time mean less privacy intrusion for the most vulnerable.
- **Protect children at home.** Not only were children and their parents forced to stay inside in a limited space in a very stressful situation for everyone, but victims of (sexualized) domestic violence were deprived of their usual daily possibility to escape the perpetrators and to either be able to confide in teachers or other adults, or for teachers and pedagogical professionals or volunteers to discover traces of violence or changes of behavior that could lead them to offer help. We therefore claim that child protective services should get more resources and in the case of a future pandemic or epidemic situations that requires lockdowns of schools and other pedagogical institutions mechanisms are implemented that protect the most vulnerable in our societies.
- **Protect individuals against domestic violence.** As inter alia children's welfare organizations warned from the beginning of the first lockdown, domestic violence increased during the pandemic, especially during periods of

confinement. Ways to report domestic violence should therefore be supported, especially if the victim cannot escape or make an unnoticed phone call. Institutions such as women's refuges should be equipped with more resources so that they can react flexibly in extreme situations. Preventive measures and activities need to be implemented and financed. Specifically, child protective services should receive more funding. These decisions should be made such that, again, in the case of a future pandemic or epidemic requiring lockdowns of schools and other educational institutions, mechanisms are in place to protect the most vulnerable.

- **Fund privacy and cyber security. Provide information about (self) data protection.** Data protection measures should be funded, including money for hiring data protection officers (cf. Véliz 2020). In addition, information about (self) data protection should be made even more accessible. Cyber security should be a priority.

Background and Signatories

The (first) signatories of this manifesto are scholars and researchers from multiple disciplines who came together for the symposium “Rethinking Privacy after this Pandemic” in September 2022 at the University of Bonn, Germany. The symposium was the central event of an eponymous research project funded by the transdisciplinary research area (TRA) “Individuals and Societies” of the University of Bonn.

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