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CHAPTER 5: THE PROBLEM OF SURVEILLANCE

Surveillance in History

- ◎ Omniscient God
 - All-powerful, all-knowing being
- ◎ Medieval public health
 - Intelligence for plagues
- ◎ Bentham's prison
 - 'Panopticon'

The legal climate

◎ US Law

- Church Committee Hearings
- Foreign Intelligence Surveillance Act of 1978 (FISA)
- Protect America Act

International Law and Jurisdiction

- Problem of jurisdiction
- Mutual Legal Assistance Treaties (MLAT)
- Data localization

Ethical Critiques of Surveillance

- ◎ Data use not 'neutral'
 - Data collection, storage, distribution, use
- ◎ Power asymmetries between watcher/watched
 - Bentham's panopticon
 - Expansion of state power
 - Equity and information access

Surveillance v. 'Spying': Transparency

- ⊙ Transparency and accountability
 - Combating corruption
 - Snowden and transparency
- ⊙ *Suspicion and distrust*
 - Self-expression and identity
- ⊙ *Differential surveillance*
 - Minority targeting
- ⊙ *Use of resources*
 - Opportunity cost

Do we have a right not to be surveilled?

- ◎ Mass surveillance as violation of law
 - UNGA
 - Electronic Communications Privacy Act
- ◎ Responses
 - European Data Privacy Directive

Encryption as a Response

- ◎ Encryption as ethical
 - Protection of personal information
 - Authentication
 - Nonrepudiation
- ◎ Encryption as unethical
 - Ransomware
- ◎ Norms and laws
 - UK Investigatory Powers Bill
 - UN support for encryption

Establishing Conditions for Ethical Surveillance

◎ *Deontology*

- Long term payoff irrelevant
- Data collection

◎ *Utilitarian*

- Situational ethics
- Post-9/11 US

◎ *Virtue*

- Restraint
- ACM's Code of Ethics

Going Deeper: Who is Edward Snowden?

- ◎ December 2012 ‘whistleblower’
- ◎ CIA Contractor
- ◎ Political Asylum in Russia
 - Hailed as hero and traitor
 - Nominated for Nobel Peace Prize

Going Deeper: What was WikiLeaks?

- ◎ Julian Assange
 - Founded in 2006
 - Gained attention from 2010/Bradley Manning
- ◎ Legal status
 - Violation of US Espionage Act
 - Wanted in Sweden
 - Servers moved multiple times
- ◎ Status of WikiLeaks as a journalistic source
- ◎ How WikiLeaks protects itself and its information

Critical Issues: What is Bitcoin?

- ◎ Differences to traditional currency
 - Not issued by government
 - Peer to peer lending medium
- ◎ Ethical issues presented by Bitcoin
 - Not regulated
 - Equity
- ◎ Should Bitcoin be outlawed?

Critical Issues: The Ethics of Cyberliability Insurance

- ◎ What does insurance do?
 - Share in risks
- ◎ The problem of moral hazard
 - Risk level higher for insured people
 - 2008 US financial meltdown
- ◎ Cyberliability and moral hazard

Discussion

- ⦿ Is keystroke logging of new employees ethical?
- ⦿ Is it ethical to log the keystrokes of non-citizen employees?
- ⦿ Can companies mandate employees to turn over cell phones and social media passwords when faced with an insider threat?
- ⦿ Should you take a job in a country known for violating human rights?