

On ‘The Information Society’[†]

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We are often told that today we live in an ‘information society’. In England and the United States there is much talk of the ‘information superhighway’ that is supposedly transforming our lives even as we speak. We are all in the process of joining the so-called ‘global village’ of communications, which will bring our bank managers into our living rooms, obviate the need for tiresome commuting to work, teach us about amazing aspects of the world around us, and allow us to interact personally with virtual game-show hosts. No doubt the same phenomena are being eagerly anticipated in the Czech Republic.

The widespread enthusiasm for these developments stems not only from our wonderment at the miraculous speed of technological change, but also from our sense, justified up to a point, that technological progress is for once keeping pace with moral imperatives. In the conditions which prevail in modern western-style democracies, after all, we cannot thrive without access to large quantities of information. Our well-being depends upon it. We cannot get a job without sources of information about the job market. We not get to work without information about the train times or the traffic conditions. We have nowhere to live unless we can obtain information about the available flats and houses. In part, this is just an instrumental concern. Without a job and a home, our lives are likely to be nasty, mean, brutish, and short. But it also reflects an underlying shift in intrinsic value. Our well-being now depends, more than ever, on the extent to which we are authors of own own lives. Central aspects of our

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lives take much of their value from the fact that we choose them from a wide range of worthwhile options. Their self-chosen aspect is partly constitutive of, rather than instrumental towards, our quality of life. One's home or one's job, however attractive, cannot play their part in defining one's life and providing an index to its success if one did not pick it out for oneself. This gives access to information a special significance above and beyond the significance it has in the pursuit of our own prevailing goals. For in order to successfully develop our own prevailing goals and endow their pursuit with its full value, we need to know about many alternative goals as well. To have a range of options, we all need to have the wide horizons that only the copious dissemination of information can provide. Against this backdrop, talk of the 'information superhighway' and the 'global village' has an inspiring and optimistic ring to it.

But to my ears at least, this talk is also sinister and alarming. I do not share the nowadays common view that the compilation and availability of accurate information is an unqualified blessing so long as it is not abused. In part, my worries have to do with the general shape of public culture. It is tempting to assume that the quality of information about our options is one thing, and the quality of the options themselves is quite another. After all, one can learn more about something without altering the thing one learns about. But a moment's thought reveals that this is not even generally true so far as options are concerned. With options, there are many forms of feedback from the information to its object. Of these I will stop to mention just two at this stage.

The first stems from the fact that many valuable options are constituted in part by, and take much of their value from, the process of discovering things for oneself. This holds true of certain kinds of holidays, of the work of academics and DIY fanatics, of some trips to the cinema or theatre, etc. Within limits one does of course need information to decide whether one wishes to embark on these exploratory opportunities. But it is essential to their character that the information does not usurp

the exploration itself. One could of course decide which detective story to read by looking up the endings to see which seemed most intriguing; but in the process one would have eliminated the worthwhile option of enjoying whodunnits that most of us fortunately still have, an option which depends on not knowing the ending but having to guess at it. The same is true of many other worthwhile options. The information destroys the whole point, or much of the point, of the reality. I have no doubt that this will soon be the effect, to our great loss, with many kinds of virtual reality and multimedia programmes. 'Making information entertaining', in the Microsoft slogan, will mean making life less rich for many people, pulling out the real options from under their feet by seducing them with virtual replacements.

The second feedback and drawback I will mention is a little more indirect, but of somewhat wider importance. It stems from the way in which people's activities may be distorted by the fact that other people will have information about those activities and may act upon it. Take the writing of references by teachers on behalf of their students. In the United States the federal Freedom of Information Act allows students to see those references. Knowing this, teachers do not write candidly. They write as if the student in question were sitting behind them whispering threats of litigation. The result is that references from American teachers are, broadly speaking, worthless in evaluating students. The whole practice of reference-writing has been corrupted. Freedom of information turns out to be self-defeating here. The more the students know, the less we know. That might not matter much by itself, since student references are largely instrumental devices and there are plenty of other ways of surmising the disappointing truth about the student's performance, but just suppose that the same thing permeates more generally the appraisal and peer-review that goes on in American universities. It destroys the very possibility of intellectual honesty in academic matters. The option of a life of

intellectual honesty, on which the whole idea of the university is based, is then eliminated. All the way down, in what used to be confidential assessments, one always has an eye to how people will react to what one thinks instead of concentrating on explaining exactly what one thinks

Freedom of information, then, can corrupt our options as well as helping to ensure access to them. I associate the popularity of the opposite view with the growth of consumerism. Consumerism tells us that information necessarily improves choice, because it allows us to make competitive comparisons of products and services, and therefore improves the responsiveness of manufacturers and service-providers to what we want. Thus in the public sector in England we are subjected to a torrent of performance targets, league tables, etc., to compensate for the fact that there is no endemic competition to make the necessary information self-promulgating. But this all seems to me to have a flattening effect on our culture, and far from increasing the range of choice seems to restrict it. For now we cannot be anything other than consumers, and our choices cannot be anything other than consumer choices. The consumer society and the so-called information society are in this respect quite closely bound up with one another, and at a certain point they both necessarily become opposed to the ideal of the self-authored or autonomous life. For they each assume that the sheer quantity of options we are faced with, can make up for the elimination of the special qualities of some of them, and hence the growing deficiencies in their moral variety.

It is but a short step from this consumerist view of information, according to which all our choices are basically choices among commodities, to the view that information itself is no more than a commodity, to be marketed according to the same principles. Patrick Birkinshaw, a great defender of freedom of information in England, professes surprise that information cannot be stolen in English criminal law. He seems to regard this as a predictable failure to appreciate the importance of

information. I regard it, on the contrary, as an unexpected recognition of just how important information can be. In general it is far too important to be seen as a mere piece of property like a washing machine or a TV. Since property is basically an instrumental institution, there is naturally some scope for making exceptions here, for example where the impossibility of protecting information by law would lead to the slowing down of investigation and research, and hence an uncompensated reduction rather than an increase in overall information. That is the point of much intellectual property law. But by and large one should remember that information is something *sui generis*. Sometimes this means that it should be in the public domain. Sometimes it means that we should keep it to ourselves. But either way there is rarely a case for determining these issues by proprietorial analogy, by asking questions about who 'owns' the information, of discussing whether and when it was 'bought' or 'sold'.

This short outburst is really just a prelude to what I really wanted to discuss, which is the problem of the large-scale collection and collation and storage of personal information, i. e. information about particular people. You may say that I have a bit of a cheek coming to the Czech Republic to talk about this problem, given that, as Lord Brown-Wilkinson once observed, 'the dossier of private information is the badge of the totalitarian state.' Who could know more about this than you, my audience? But I have two reasons for thinking that I should add some thoughts to what you already know from the sharp end. The first is that you will associate the problem principally with the information-gathering activities of executive government. For me, however, the problem is equally a problem associated with the retention of 'commercially significant' personal information kept by larger employers, banks, insurance companies etc. The second reason for talking about this is that your experience will lead you to stress the abuse of personal information, its exploitation as a tool of blackmail or unjustified exclusion from

office, etc. My main arguments, on the other hand, will be against the collection and retention of this information even if it is entirely accurate and never misused by anybody. I will be arguing, in short, for a moral right to personal anonymity.

These issues have more often been placed under the heading of the right to privacy. This is not my favourite label. Again, I offer two reasons for steering clear of it. The first is that stressing the right to privacy may make one think that it must be alright to collect and collate information relating to what people do in public, i.e. without concealment. But I do not subscribe to this distinction: what I say will apply just as much to the recording of what I do in Oxford High Street as it will apply to the recording of what I do in my own flat. Secondly, talk of a right to privacy has been used, particularly by lawyers, to cover just about every interest that has ever been thought worth protecting. It has been made roughly equivalent to a right to be left alone, a right not to be the subject of undue regulation, a right to do as one likes. I do not believe that anyone has these rights. What they do have, however, and what I will try to defend, is a narrow and powerful right to personal anonymity: a right to be nobody in particular when that is who they want to be, a right to be, in the quaint old British police expression, an ordinary member of the public.

Let me tell you something about the depressing state of anonymity in Britain today. For many public sector jobs, including jobs at the BBC, people are vetted by the government security services. For some of these jobs, the vetting is 'positive', i.e. it extends beyond checking whether people have a security record to discovering whether they probably ought to have one. Security records in existence extend beyond criminal and terrorist connections to identify 'subversive' connections, including membership of some lawful campaigning organisations and political parties. Private trade associations which provide vetting services to corporate employers, blacklisting trade union activists and other 'troublemakers', have been to some extent abandoned by reputable companies, but still operate in some

business sectors. Private agencies vetting customers for creditworthiness are as powerful as ever, and while their records no longer put a black mark against people who merely live at the same address as defaulters, they often put a black mark against those who dispute their debts. At some protest rallies, the police special branch take photographs of individual protestors to hold on file even though they are committing no crime. Telephone tapping and mail interception have apparently been less common since the system was put on a statutory basis in 1985, but the 1985 provisions also prevent individual warrants being challenged, or even disclosed, in court, so we can never actually learn whether we have been under personal scrutiny. Bugging devices are largely unregulated, and new proposals will only control their use by the press and not by, for example, unscrupulous employers 'checking up' on their staff loyalty or diligence. Recorded video surveillance by private enterprises is now common, not only in shops, but also on the streets, and the videos are often used by police and even paraded on television by the crime-obsessed media. Some cameras are also used officially to trap speeding motorists, and in one location to flash the 'fact' of their guilt instantly on data screens by the motorway. So much for the common law presumption of innocence. By statute, fingerprint records are destroyed by the police after an investigation is complete, but no such protection extends to DNA profiling data which is now being collated into a national databank, soon to have statutory sanction and even extending to those who volunteered the data for elimination purposes. The government is now creating an official national list of unincarcerated mentally ill people who are thought to be a danger to the public or themselves. Local authorities maintain 'at risk' registers of children whose families are suspected of abusing them. There is serious talk of introducing a national identity card, in the form of a smart card with large personal data storage capabilities. Already admission to football grounds is controlled by an official football identity card. Social security claimants are

now to be put in much the same position. Increasingly there is 'data matching' between government departments, such as health, social security, and the passport office, to provide consolidated general files on all individual citizens. The driving and vehicle license office has for many years passed information systematically to the Inland Revenue. Television dealers pass on their records to the television license office. Boots the Chemists, which develops many people's holiday photographs, has a practice of telling the local police if it thinks you have taken indecent photographs or your photographs show evidence of criminal activities such as drug use. Most charities and voluntary organisations, as well as credit card companies etc., sell their computerised mailing lists so that junk mail can come in floods instead of trickles, all carefully designed, we are told, to reflect the social background and interests of its recipients. Insurance companies are now consolidating their claims records so that each can check on every insured person rather than just its own existing customers. Insurance companies also keep records of whether applicants for insurance have had HIV tests, positive or negative, although they now propose to refine this data rather than using it as a straightforward blacklist. Information about AIDS and HIV status is also held on the Police National Computer alongside evidence of previous criminal convictions. The child support agency collects and retains copious data about the personal finances of divorced or separated people and their new partners. The community charge legislation until recently required local authorities to maintain lists of all residents, and the replacement council tax requires registration of whether homes are in single or multiple occupancy. The social security system requires the disclosure and recording of sexual relationship, which are presumed to carry with them economic dependency, and social security officers presume male and female co-occupants to be sexual partners if the contrary is not convincingly established by, if necessary, a home visit to inspect the sleeping arrangements. And I do not even stop to deal with the large

amounts of personal data, much of it to do with sleeping arrangements, which find their way into the pages of newspapers simply to satisfy public prurience and nosiness.

So much for the most conspicuous intrusions into our anonymity. What protections does English law afford us against them? The most general protections, if we can really call them that, are provided by the Data Protection Act of 1984. The rules of this Act extend to most computerised databases containing personal information, although manual records (like those of the most notorious commercial blacklisters) are not covered, and security service and many other government files are excluded. Databases falling within the scope of the Act must be registered with a civil servant called the Data Protection Registrar, and the purpose for which they are to be used must be disclosed. If they are used beyond that purpose, or exceed what is needed for that purpose, the Registrar can strike the user off the register, so making the use of the database unlawful. The Act also requires disclosure of data upon request to the person to whom it relates, and makes provision for correction of inaccuracies. But it does not in any way regulate the list of purposes, within the limits of the general law, for which databases may be kept. Nor does the act allow one to trace the original source of any inaccuracies one may discover, so as to permit corrections further back or libel actions against the original supplier. Many informants of such data are in any case protected from such actions by a preposterous rule of common law granting privilege defamatory statements made in good faith by or to trade associations (such as credit reference agencies and blacklisting organisations). The Consumer Credit Act of 1971 does at least grant us additional rights of access and to our own credit reference files even if manually stored, and local authority files are subject to similar provisions under the Access to Personal Files Act 1987. The Data Protection Registrar is concerned that a very common use of these latter 'protections' is actually by employers and licensing bodies who would not themselves be entitled to disclosure, but

who often require employees to perform and pass on disclosed records concerning themselves as a condition of employment or licensing - an irony indeed. The Security Service Act of 1989 purports to regulate the collection and use of data by the security services, but the grounds of review are so limited, and the prospects of discovering that it is held are so slight, that there may as well be no tribunal to enforce the new rules. In fact the only data protection rule with real teeth is the protection extended to those with criminal records which are regarded as 'spent' under the Rehabilitation of Offenders Act 1974, which creates defamation liability for those who maliciously pass on information about someone's spent convictions, even though the information is perfectly accurate. This means that the one thing we can reliably be shielded from, by and large, is the continuing effect on our opportunities for work, housing, credit, etc. of a genuinely shady past. Other recorded rumour and gossip about us, true or false, and perhaps just as damaging, is a good deal harder to expunge.

The Rehabilitation of Offenders Act alerts us to the first argument against allowing all of this personal information to be retained and relied upon, and provides a partial model for improved protections. Under some cultural conditions, people broadly speaking live out the roles which are imposed upon them by convention or passed down through the generations. People's lives are generally structured in one of a relatively narrow range of predictable and patterned interlocking models. To learn that somebody is a miner, or middle class, or a trade unionist, or a housewife, or a methodist, or a communist, or a barrister is, under such cultural conditions, generally to learn a great deal more about them besides. One can say a great deal with confidence about their tastes and virtues, indeed about their whole standing. But these are no longer, in western-type societies, our cultural conditions. The fact that so much value, instrumental and intrinsic, now depends on one's authorship of one's own life has two major repercussions for the structure of

social roles. The first, and the one which the Rehabilitation of Offenders Act most clearly recognises, is that people can (in the soap opera idiom) attempt to start a new life. They can, social and economic predicament permitting, put their pasts behind them. That is possible only because of the way in which our social forms and practices are now organised around the idea that one chooses for oneself. In different times, as Dickens and Austen so often remind us, there was no escaping one's lot; not because social and economic predicaments were worse, although perhaps they were, but because social life was not structured around options at all; our lives were givens, and our well-being was in much larger measure hostage to those givens. To be a criminal or a beggar, under those conditions, was a final and decisive classification. But under our conditions, as the 1974 Act recognises, people are rarely such fixed stars. The other related development is that, at one and the same time, people can live out incongruous and hitherto unknown combinations of roles. This is again a function of the development of social forms and practices structured around self-authorship. For what these forms and practices allow for is their own idiosyncratic development in the hands of particular people who adapt them or even rebel against them, and who, thanks to the widened horizons of their moral imaginations, are able to make something new out of them in their own lives. People forge new kinds marriages and friendships, new kinds of working arrangements, new pastimes, new political affiliations, new religions, etc. - new, not just in the sense of new to them, but new in the sense of representing novel adjustments of familiar motifs, often bringing them together in surprising new counterpoints. What all of this means, put simply, is that one can no longer rely as perhaps one previously could on simple classifications of people to tell one much about them. One can no longer reliably infer from the fact that someone was once in debt, or once a supporter of revolution, or once a drug user, that they have a certain kind of life, with certain kinds of weaknesses and strengths. Nor can one even classify people into

useful groups from facts about them now. There are heroin-addicted city executives as well as heroin-addicted inner-city delinquents, homosexuals without vulnerability to blackmail as well as homosexuals with it, trade union activists who are not revolutionaries as well as those who are. That is why stereotyping has become a big issue. It is also why much storage of personal information is as invidious as it is silly. The guidance it gives, even when accurate as far as it goes and innocently used, e. g. in actuarial or marketing decisions, is in two dimensions worse than useless. First, it can so easily be irrelevant to the present person even though prominent in the person's past; second, it can so easily be relevant only to some corner of the person's present life, and say nothing about other features or qualities of it. Notice that these facts stem from the same cultural transformation which inaugurated what we now proudly call the information society. But notice also that the information society has singularly failed to adapt to their demands. The more information is held on us nowadays, the more we are the victims of stereotyping, even if scientifically disguised under the heading of 'statistical generalisation'. The only feasible way to prevent this stereotyping, in my view, is to control by law the way in which, the time for which, the extent to which, and the purposes for which for which the personal information itself may be collated and stored and relied upon, whether in commercial or governmental, or even in charitable and educational, settings.

The second argument has implications which overlap with, rather than exactly confirming, these conclusions. It is what we could call the inhibition argument. According to the inhibition argument, the known or suspected public collection of information about people tends to repress the development of worthwhile aspects of their personality, and the scope for social innovation. We are often told by supporters of identity cards, public surveillance systems, etc. that only those with something to hide have something to fear from these initiatives. The ordinary public have nothing to fear, since they have done

nothing wrong. Let us assume, for the sake of argument, that this is true i.e. that the initiatives will not be abused. It is nevertheless grossly misleading. For these initiatives affect our lives in many ways which will not necessarily be reflected in fear, so the fact that we will have nothing to fear is entirely the wrong touchstone. What these initiatives do is encourage us to consider how to lead our lives in the light of how our decisions will be seen or recorded or interpreted rather than in the light of their own merits. This makes the initiatives into an inhibition on the development of aspects of our lives that may be worth developing or experimenting with, and certainly do no wrong, such as the display of affection by homosexual couples, the wearing of radical political badges, the trial of new fashions, anything, indeed, which may draw negative attention to oneself. Of course, as Mill saw, the tyranny of public disapprobation is always there for the moral innovator. But what devices involving surveillance and other methods of public identification do is to increase the subliminal pressure. They prop up the stultifying edifice of bourgeois social conformity. Some say that if they also trap villains that is a small price to pay. I beg to differ. Better that the small number of amateur crooks who forget to put stockings on their heads or otherwise conceal their identities go free than that the rest of us have our moral imaginations constrained by the possibility that our innocent experimental activities will be monitored and recorded, and that we will then have them bonded to our souls by paranoid supermarket managers and security guards, irritable customs officers, etc. That is, among other things, why I have a right to anonymity when I take my photographs for processing. But it is also, more profoundly, why I should never have to carry identification papers or be photographed or videoed for general surveillance purposes.

The third argument is in many ways more general than either this inhibition argument or the stereotype argument which preceded it. It is also the argument which is closest to my own heart. The third argument concerns the social meaning of

personal information in an alienating modern world. Knowledge about ourselves is, under these conditions, a gift which we bestow upon those few with whom we forge bonds of love and trust. The depth and scope of mutual personal knowledge is often, indeed, a sign of the depth and scope of a given relationship. The moral importance of this goes very deep. It lies in the need which mass modern culture creates for a sense of differentiated identity, for being someone in particular rather than Mr or Ms Nobody. You may think that this naturally militates against my supposed right to anonymity, which, after all, was a right to be nobody in particular when that is what one chooses to be. But in fact the need for identity militates in favour of this right. For mass modern culture makes it impossible, for the most part, to find this identity except by forging special bonds different from one's homogeneous relations with those one merely sees on the bus to work each day. And the gift to personal knowledge is the key to forging these bonds. Those who steal that personal knowledge, if I may for once use the proprietorial metaphors which I warned against, also steal the gift. They intrude upon the differentiation of one's identity. That, I think, is what seems most intrusive about junk mail, about kiss-and-tell stories in the papers, and about various other kinds of intrusion into our public anonymity. It also bolsters the case I already made, on other grounds, against credit reference agencies, security service data, video cameras, identity cards, civil service data-matching, and even snitching by shops.

The constraints of this talk have only allowed me to introduce these considerations rather cursorily. But I hope I have made clear what I find alarming and sinister about the idea of 'information superhighways' and, more particularly 'the global village'. A certain nostalgic tendency in modern political philosophy idealises the village. It paints a picture of a small community at ease with itself, all of its members friends, all of its experiences in common. No doubt one can, under certain cultural conditions, enjoy an excellent life in such a village. But

these are not our conditions. We can not abolish the city, or even the rural market town. We cannot, therefore, replace alienation with general mutuality and cordiality, and live in each others' pockets. Not only would it be impossible to reverse these effects of modernisation; the result would also be clawing and intolerable against a background of otherwise modern life. I have no wish to live in a village, let alone a global village, in which everyone knows my business and personal information about me is part of some common experience. I live in a city, to put it another way, partly because of the alienation, and the stark differentiation between those known to me and those unknown to me which the city allows. We need our anonymity to live successful modern lives. But the information society is, in this respect, the very antithesis of the modern, and far from keeping pace with the moral imperative to personal autonomy, it flies in the face of some of its most important and cherished implications.