

Business Ethics: Privacy

職業倫理：プライバシーの重要性

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Keywords : Deontology, Privacy, Security

抄録：本稿は、義務論的倫理学の視点から社会の中にある道德基準について概観し、ビジネス環境におけるプライバシーの重要性について論証することを目的としている。ビジネス環境においては、模範的な人でさえプライバシーを侵害する可能性は否めない。本論では、多様な視点からプライバシーについて詳述するため、たとえば9月11日のテロ事件後にアメリカで起きた個人情報に関する事例等も用いている。義務論的倫理学の中で取り扱われる道德原理を軸とした場合、個人のプライバシーを守ることは最重要課題であるといえるだろう。

キーワード：義務論的倫理学, プライバシー, 安全

1. Introduction

Dispensation of personal information in the workplace is an issue that raises many questions. For instance, how far should corporation go to insure the success of its business? In this paper, the writer will support confidentiality of employees' personal information despite any other factors. In illustrating the controversial issue of human right to privacy, consideration should be viewed as being more important than any other concern in the business contract. Even in the cases where a reasonable person might consider alternative views, privacy should be upheld and respected. Non-consequential or deontological argument will indicate why it is immoral and an unjust act to breach any individual person's confidentiality. Those arguments against breaking privacy will suggest it might be for the safety of human life or the survival of a business. Regardless of any good intension, breaking privacy is wrong in itself and therefore stands without integrity.

2. The Workplace

The process of taking on employment requires the individual to respond to the needs of a company. Once the role as employee has been bestowed, it would be fair to suggest that person should act in accordance to the philosophy of that business. Thus, everything about the person status represents the company. As this commencement occurs, Ewing cited in Thomas, (1983) proposes a critical view on the arranged structure of employment due to what he believes is the loss of civil rights. In this claim, the system has been set up to be firmly in place for the individual to follow the organization rules in accordance to the company philosophy. In turn, with this inception personal characteristics diminish. The employer takes charge of the employee by placing dubious rules upon them. Accordingly, they need to act and behave fittingly to the philosophy of the company. A new employee may believe they are responsible for their actions, particularly, if their code of conduct was not consistent with the interests of the company. Otherwise, the employer may be inclined to instigate penalties. In this perspective, companies have taken a commanding position too

far. Ewing elaborates further by indicating the concept of the employer being in control does not mean the worker has no rights as they would have as a citizen of a country of residence. Regrettably for the employee, if they do not follow the rules of a company, they risk being faced with retrenchment. Hence, the workers civil liberties are imbalanced with the outside society.

Workplace environments where privacy is not seen as a fundamental right could be at risk of causing disruptions. An example of obtaining information from establishments has been proposed by Shaw, Barry & Sansbury (2009, p. 446) who points out the following statistic: *“research conducted by the law firm Freehills in 2001 found that 76 per cent of the top Australian companies regularly monitor employee emails”*. In this find, the process of obtaining personal information was mostly done without the employee permission or without them even noticing. There are other equivocal methods of recording and / or gathering information on employees. They may involve installing cameras for the purpose of monitor work habits. Other test may go even further, such as, conducting blood test in hope of discovering cases of drug use and/ or alcohol consumption. Additionally, blood tests can be applied to finding out people who have been infected by infectious diseases. For instance, in the case of a staff member contracted HIV and was living with the AIDS condition, may impede on any kind of career at a company, due to negative stereotypes that can lead discrimination (Muskat-Gorska, 2008). To a lesser degree there are many other ways of broaching privacy, such as looking into other staff members draws at their desk, even if it was only to look for a pencil. Any of the above examples of acquiring privy information can infer with the liberties of an individual.

Whether the workplace environment is a separate place from the rest of normal society has relevance to issues of privacy. According to Carr (1968) suggests business is a game with rules which may not be aboveboard, unless, people from outside of the company are involved. This indicates that the

workplace is not a place for honorable or ethical interactions. Whereas, when conducting business outside of the workplace, there is a social contract to be conscientious of others through virtuous behavior. Despite this theory that suggests, business is not personal and anything goes attitude, unethical behavior may lead employees turning for assistance from their union. Shaw, Barry & Sansbury (2009) indicate Unions push for improvement in ‘moral issues’. They will call for fair conditions for a worker in the case of risk to health, inadequate salary or serious issues in the workplace. Actions will not be taken against an employer for paltry issues or disagreements, but if an employee is threatened the unions will be inclined to intervene. In the event negotiations between unions and management fall down, undesirable strikes may become an option.

Looking at global guidelines, the Economic and Social Council of the United Nations (1948) established the Universal Declaration of Human Rights which introduced the protection against inhumanity following the monstrosities of the Second World War. Article 23 illustrated below describes workplace considerations. They are as follows:

- (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.*
- (2) Everyone, without any discrimination, has the right to equal pay for equal work.*
- (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.*
- (4) Everyone has the right to form and to join trade unions for the protection of his interests.*

(United Nations, 1948)

From this human rights contract that member states of the United Nations (UN) have agreed on as well as from union support, citizens have rights during office hours. It is in the best interests of society to protect the well-being of the employee at work as is done

after hours. Apart from UN guidelines, it should be in the best interests of a business to uphold respect for each individual's privacy.

3. Deontological Perspectives

In this next section of the paper, deontological views of ethical theory will be drawn on to determine privacy as being fundamental right. Going back three centuries ago Immanuel Kant cited in Shaw, Barry & Sansbury (2009) maintained categorical imperatives for moral behavior. They can be broken down into three distinctive areas that include the following, 'good will', 'universal law' and 'humanity as an end, never as merely a means to your end'. The first moral Kant refers to is 'good will', this can be described as the course of actions which follows a belief in doing the right thing, because you want to help another person. In accordance with 'good will' morals, helping a friend is an aim and objective of an action. The person provides through kindness, not because they want something in return. There is no give and take or quid pro quo in this theory, so when a person helps another person through 'good will', they cannot have expectations of receiving something or be disappointed, if the favor is not returned. It would appear reasonable that if society promotes privacy then it would be the duty of the company and those who represent it to show a commitment to its members. For that reason, 'good will' should be part of a respectable code of conduct. The second moral Kant is concerned with is 'universal law'. This be exemplified by maintaining the same stance if the situation was reversed. If an act is logically correct then it could be done in every situation, despite the location or who was involved. The thought of treating each case individually, would not be applicable in this theory. Through 'Universal Law' if an action could not be done in every situation then it would not be relevant with this theory. Kant saw honesty as 'universal law' and therefore it would appear truthful to respect others despite the effect honesty may have on any given situation. Honesty is a virtue on the grounds that are what a reasonable person

would like for themselves. Problems can be made here, for if privacy and honesty conflict with each other. For example, if a manager asks a question to an employee about another staff member's personal life, should they be honest? If they were to protect the co-workers privacy as well as be honest with their boss then a dilemma will occur. If privacy was 'Universal Law', the co-worker would not be able to be honest, as well as protect privacy at the same time. Even still, Kantian theory of 'Universal Law' has relevance, because every single person has the right to privacy. Finally, Kant saw mankind as being reasonable and people should focus on treating others the way they would also intend to be treated themselves. Human beings are to be respected as a member of sisterhood or brotherhood, not as a way to find personal benefit. This final rule of "treating humanity as an end, never as a means to your end" implies dignity and respect of others should be appreciated, not because it has benefits for you personally. In the situation a staff member's privacy versus company loyalty may come into question. For example, if a boss reads subordinate emails and discovers they are leaking information to competing companies then should they show common dignity and respect to them? The livelihood of the company may be at stake because of this selfish employee (Shaw, Barry & Sansbury, 2009).

4. Virtues

Remaining on deontological accountability, there are other fortitudes to consider within ideal characteristics of ethicalness. Shaw, Barry & Sansbury, (2009 p. 88) identify exemplary virtues by embracing "*generosity, honesty, courage, compassion, integrity and benevolence*" with emphasis on upholding amiability between parties of people. In many other mindsets, these sorts of morals have been described thought out the ages, going back over two thousand years to Aristotle who proposed living a virtuous life would bring happiness. Therefore, following Aristotle's virtuous characteristics would appear advantages. Regardless of what may appear obvious and right,

not all people will agree on precedence of virtues. Underlying every person's plans is the motive behind their actions. Despite how we see an action, one person may rationalize what they are doing and see it as just. In this view, breaking privacy may be seen as being open and honest. In this event, management would be encouraged to approach corporate lifestyle with a moral vision by setting clear guidelines that promote integrity (Colle and Werhane, 2008). Maintaining clear collaborative privacy principles of behavior may cost the company profit and potentially its survival. Yet, even in the circumstances of operating without dignity then they should not continue to operate as a business. From this position, staff that has loyalty to the company's best interests above the individual might be inclined to see breaking privacy as fair, because they will see that the company is more important than the individual. In turn, others would see this as a breach in privacy, which is against decency.

5. Ethics of Care

Thus far this paper has described the virtuous person is one who has acquired outstanding characteristics for the purpose of a good life. Yet, in order for others in society to benefit from an outstanding person, this individual would need respect for the general public. In this position, the 'Ethic of Caring' would stem to enhance the quality of life for family, friends, community and all of humanity. This can also transcend into the corporate world of business. For example, if an employees' person in charge did not show respect then it may come out in the employees' production of work. Therein, the company does not run as effectively and gains less profit. As a consequence, the community does not benefit from the production of the company. On each level of society, from the individual to the community everyone is somehow affected by the production of each individual (Shaw, Barry & Sansbury, 2009).

6. Capitalism

Ideally, business would operate effectively without dispute. Unfortunately, working ideals of utopian lifestyles are unrealistic. In the capitalistic business world privacy has not been disregarded. Unfortunately, the court systems in western countries are littered with claims against indecent workplace practice. Raban, (2012) points out in a free economy, governments place few restrictions on corporations monopolizing the market. For that reason, competition drives endeavors to beat their competition. Nevertheless, in the capitalist environment, the most important issue is to adhere to the individuals rights. Every person is respected above all else. Essentially, the individual person takes precedent before community, friends, family or any social group. The reason for the importance of the individual is capitalism holds its place from liberal philosophy (Raban, 2012). The conundrum occurs when the corporation's incentive to gain power and / or profit while the employee wants to be treated with the same considerations as a regular citizen. Hereinafter, Raban elaborates further by proposing the following three conditions that the individual is rightly due in capitalist culture, they are as follows:

- (1) creating a free personal sphere where individuals pursue their personal wellbeing free from coercion by others,*
- (2) correcting for a cognitive malfunction that distorts individuals' ability to pursue their own personal well-being, or*
- (3) advancing an interest other than personal well-being—like economic efficiency or national security, but excluding mere ethics or morality—that takes priority in that particular context*

(Raban, 2012)

Alternatively, the wellbeing of the company needs to be considered. In the circumstances, one of the employees was not a good representative of the company then that could cause concern. For instance, if their controversial lifestyle or personal activities outside of the office become public

knowledge, this could have a damaging effect on the company. O'Meara, (2000) describes the case where a manager at the Coca Cola Company posted nude pictures of himself on the internet. The company in question here has a pristine image and this employee could cause damage to the business by tarnishing its clean name. In addition to losing a good reputation, Coca Cola's competitors may use this information against them and jeopardize business. Despite causing a scandal, the official message in reply to this act from Coca Cola was, this activity occurred outside of the office, therefore no intervention happened and no action was taken against the manager. In the same paper, O'meara, (2000) describes a similar case of a policewoman who posed for a famous men's magazine and lost her job because of technicalities. In her photo shoot she was wearing colors that could symbolize the police department. Clearly, this points out that this was not a universal law, even though there are similarities between the two cases mentioned. Both parties did not act with concern for their employer, but Coca Cola would be seen here as the just company. Alternatively, the police department represents the safety of citizens, illustrating the complexity of universal law.

Other complicated situations occurred following the September, 11 Twin Towers incident. It would be common knowledge this event was one of the biggest issues is the safety of citizens from terrorism. For national safety, it is clear that authorities would need to investigate possible suspects and they would need to get to the bottom of this case at any cost. This leads to the possibility of those authorities breaching privacy. Shortly following the attack on America Olsen and Hansen (2001) explained the politicians were quick to clear up any misconceptions about personal information being accessible. There was going to be adequate measures in place to find the perpetrators, although it was not going to come at the cost of breaking US citizen's privacy. Privacy laws would be high priority and respected. In spite of politician's assurances, a new law was passed a few days

following the attacks, allowing military greater access to surveillance of personal information. In this situation, it would be difficult to imply the military were not acting with integrity. They were trying to save the lives of their own people. Obviously, the terrorists responsible would try to terrorize again and it would be in the military's interest to do their job of fighting the enemy. It could be seen as cowardice not to take action against an aggressive opponent, such as Al Qaida. This case and point leads to the dilemma the US government had and still has on interfering into the personal lives of people. This issue of privacy versus security reinforces the point that universal law would insist privacy should be upheld despite the threat of costing human life. In this case, universal law would be questioned and easily disregarded for the ethic of care for those in the community. Unfortunately, it would appear impossible to act in good will towards a person or group who has conflicting virtues.

In conclusion

In this paper, the workplace was addressed as a pursuit for the individual to be respected while being a contributor to society. Undertaking this role was not to be done without loss to democratic rights to privacy. Following the international conventions from the United Nations guidelines, every individual is an essential member of the human race and is given the fundamental protection against injustice. In addition, Kantian theory argues for standards of moral virtues to be upheld and equal rights sustained as a wellbeing gesture to a standard of living. These deontological theories express common good of humanity. Therefore, each person is owed the common decency of privacy. In the event the rights of an individual were disclosed then decency would be lost. This rule can come under scrutiny when the lives of fellow humans are at risk or survival of a company comes under pressure. The underlying argument to the question of privacy comes under debate from security and threat to human life. There is no simple answer to these difficult questions, yet, by using ethical theories can

encourage looking at dilemmas with consciences and humane intentions.

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