

Nothing to hide argument

The **nothing to hide argument** states that individuals have no reason to fear or oppose surveillance programs, unless they are afraid it will uncover their own illicit activities. An individual using this argument may claim that an average person should not worry about government surveillance, as they would have "nothing to hide".^[1]

History

An early instance of this argument was referenced by Henry James in his 1888 novel, *The Reverberator*:

If these people had done bad things they ought to be ashamed of themselves and he couldn't pity them, and if they hadn't done them there was no need of making such a rumpus about other people knowing.

Upton Sinclair also referenced a similar argument in his book *The Profits of Religion*, published in 1917 :

Not merely was my own mail opened, but the mail of all my relatives and friends — people residing in places as far apart as California and Florida. I recall the bland smile of a government official to whom I complained about this matter: "If you have nothing to hide you have nothing to fear." My answer was that a study of many labor cases had taught me the methods of the agent provocateur. He is quite willing to take real evidence if he can find it; but if not, he has familiarized himself with the affairs of his victim, and can make evidence which will be convincing when exploited by the yellow press.^[2]

The motto "If you've got nothing to hide, you've got nothing to fear" has been used in defense of the closed-circuit television program practiced in the United Kingdom.^[3]

Prevalence

This argument is commonly used in discussions regarding privacy. Geoffrey Stone, a legal scholar, said that the use of the argument is "all-too-common".^[3] Bruce Schneier, a data security expert and cryptographer, described it as the "most common retort against privacy advocates."^[3] Colin J. Bennett, author of *The Privacy Advocates*, said that an advocate of privacy often "has to constantly refute" the argument.^[4] Bennett explained that most people "go through their daily lives believing that surveillance processes are not directed at them, but at the miscreants and wrongdoers" and that "the dominant orientation is that mechanisms of surveillance are directed at others" despite "evidence that the monitoring of individual behavior has become routine and everyday".

An ethnographic study by Ana Viseu, Andrew Clement, and Jane Aspinall revealed that individuals with higher socioeconomic status were not as concerned by surveillance as their

counterparts.^[5] In another study regarding privacy-enhancing technology,^[6] *Viseu et al.*, noticed a compliancy regarding user privacy. Both studies attributed this attitude to the nothing to hide argument.

A qualitative study conducted for the government of the United Kingdom around 2003^[7] found that self-employed men initially used the "nothing to hide" argument before shifting to an argument in which they perceived surveillance to be a nuisance instead of a threat.^[8]

Viseu et al., said that the argument "has been well documented in the privacy literature as a stumbling block to the development of pragmatic privacy protection strategies, and it, too, is related to the ambiguous and symbolic nature of the term 'privacy' itself."^[6] They explained that privacy is an abstract concept and people only become concerned with it once their privacy is gone. Furthermore, they compare a loss to privacy with people knowing that ozone depletion and global warming are negative developments, but that "the immediate gains of driving the car to work or putting on hairspray outweigh the often invisible losses of polluting the environment."

Criticism

Edward Snowden remarked "Arguing that you don't care about the right to privacy because you have nothing to hide is no different than saying you don't care about free speech because you have nothing to say."^[9] He considered claiming nothing to hide as giving up the right of privacy which the government has to protect.

Daniel J. Solove stated in an article for *The Chronicle of Higher Education* that he opposes the argument. He believed that a government can leak information about a person and cause damage to that person, or use information about a person to deny access to services, even if a person did not actually engage in wrongdoing. A government can cause damage to one's personal life through making errors.^[3] Solove wrote "When engaged directly, the nothing-to-hide argument can ensnare, for it forces the debate to focus on its narrow understanding of privacy. But when confronted with the plurality of privacy problems implicated by government data collection and use beyond surveillance and disclosure, the nothing-to-hide argument, in the end, has nothing to say."

Adam D. Moore, author of *Privacy Rights: Moral and Legal Foundations*, argued, "it is the view that rights are resistant to cost/benefit or consequentialist sort of arguments. Here we are rejecting the view that privacy interests are the sorts of things that can be traded for security."^[10] He also stated that surveillance can disproportionately affect certain groups in society based on appearance, ethnicity, sexuality, and religion.

Bruce Schneier, a computer security expert and cryptographer, expressed opposition, citing a statement widely attributed to Cardinal Richelieu,^[11] "Give me six lines written by the hand of the most honest man, I'll find enough to hang him," referring to how a state government can find aspects in a person's life in order to prosecute or blackmail that individual.^[12] Schneier also argued that the actual choice is between "liberty versus control" instead of "security versus privacy".^[12]

Harvey A. Silverglate estimated that the common person, on average, unknowingly commits three felonies a day in the US.^[13]

Emilio Mordini, philosopher and psychoanalyst, argued that the "nothing to hide" argument is inherently paradoxical. People do not need to have "something to hide" in order to hide "something". What is hidden is not necessarily relevant, claims Mordini. Instead, he argues an

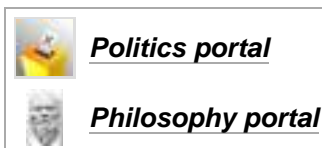
intimate area which can be both hidden and access-restricted is necessary since, psychologically speaking, we become individuals through the discovery that we could hide something to others.^[14]

Julian Assange agreed with Jacob Appelbaum and stated that "Mass surveillance is a mass structural change. When society goes bad, it's going to take you with it, even if you are the blandest person on earth."^[15]

Ignacio Cofone, a law professor, argued that the argument is mistaken in its own terms because, whenever people disclose relevant information to others, they also disclose irrelevant information. This irrelevant information has privacy costs and can lead to other harms, such as discrimination.^[16]

In refutation of the argument, the Indian Supreme Court has found that the right to privacy is a fundamental right of Indian citizens.

See also



- Biometrics – Metrics related to human characteristics
- Information privacy law – Data privacy laws describe the rights of natural persons to control who is using its data
- Mass surveillance – Intricate surveillance of an entire or a substantial fraction of a population
- National security – Security and defence of a nation state
- Optimism bias – Type of cognitive bias
- Right to privacy – Legal tradition restraining actions threatening individual privacy

Notes

1. Solove, *Nothing to Hide: The False Tradeoff Between Privacy and Security*, p. 1 (https://archive.org/details/nothing_sol_2011_00_0769). "If you've got nothing to hide, you shouldn't worry about government surveillance."
2. Sinclair, Upton (1918). *The Profits of Religion: An Essay in Economic Interpretation* (<https://archive.org/details/profitsreligion01sincgoog/>). Pasadena, CA: the author. p. 145.
3. Solove, Daniel J. "Why Privacy Matters Even if You Have 'Nothing to Hide' (<https://chronicle.com/article/Why-Privacy-Matters-Even-if/127461/>)." *The Chronicle of Higher Education*. May 15, 2011. Retrieved on June 25, 2013. "The nothing-to-hide argument pervades discussions about privacy. The data security expert Bruce Schneier calls it the "most common retort against privacy advocates." The legal scholar Geoffrey Stone refers to it as an "all-too-common refrain." In its most compelling form, it is an argument that the privacy interest is generally minimal, thus making the contest with security concerns a foreordained victory for security."
4. Bennett, p. 97 (<https://books.google.com/books?id=aKEPrhAtk7wC&q=%22nothing+to+hide%22&pg=PR16>).
5. Best, p. 12.
6. Viseu, et al. p. 102-103.

7. OECD, "Appendix II: Can We Be Persuaded to Become Pet-Lovers?" p. 323 (<https://books.google.com/books?id=GIXGYFJ6ANgC&dq=%22In+a+recent+qualitative+study+conducted+for+the+UK+government%22&pg=PA324>).
8. OECD, "Appendix II: Can We Be Persuaded to Become Pet-Lovers?" p. 326 (<https://books.google.com/books?id=GIXGYFJ6ANgC&q=%22brokers+in+networks%22&pg=PA326>). "The self-employed males, by contrast, who operated as brokers in networks; might sometimes begin with the "nothing to hide" frame, in which they would claim that no one with anything to hide need be concerned about privacy at all, but quickly shifted to the "inconvenience" frame, in which data collection and sharing was seen more as a nuisance than as a threat."
9. "Just days left to kill mass surveillance under Section 215 of the Patriot Act. We are Edward Snowden and the ACLU's Jameel Jaffer. AUA. • /r/IAmA" (https://www.reddit.com/r/IAmA/comments/36ru89/just_days_left_to_kill_mass_surveillance_under/crglgh2/). *reddit*. Retrieved 2016-10-27.
10. Moore, p. 204 (<https://books.google.com/books?id=AEn0J0Drx9MC&dq=%22tHE+DISTribution+aspect+is+highlighted+when+surveillance+targets%22&pg=PA204>).
11. "Cardinal Richelieu - Wikiquote" (https://en.wikiquote.org/wiki/Cardinal_Richelieu#Disputed). *en.wikiquote.org*. 2023-05-31.
12. Schneier, Bruce. "The Eternal Value of Privacy (<https://www.schneier.com/essay-114.html>)."
Schneier on Security (<https://www.schneier.com/>). May 18, 2006. Retrieved on May 13, 2017.
13. *Three Felonies a Day: How the Feds Target the Innocent*. Encounter Books. 2011. ISBN 9781594032554.
14. Mordini "Nothing to Hide — Biometrics, Privacy and Private Sphere." pp.257-260
15. "Courage Foundation: Reddit AMA" (<https://web.archive.org/web/20150410013700/http://wikileaks.blogspot.nl/2015/04/courage-foundation-reddit-ama.html>). Archived from the original (<http://wikileaks.blogspot.nl/2015/04/courage-foundation-reddit-ama.html>) on 2015-04-10. Retrieved 2015-04-08.
16. Cofone, Ignacio N. (2019-12-14). "Nothing to hide, but something to lose" (<https://muse.jhu.edu/article/743215>). *University of Toronto Law Journal*. **70** (1): 64–90. doi:10.3138/utlj.2018-0118 (<https://doi.org/10.3138%2Futlj.2018-0118>). ISSN 1710-1174 (<https://www.worldcat.org/issn/1710-1174>). S2CID 169140315 (<https://api.semanticscholar.org/CorpusID:169140315>).

References

- Bennett, Colin J. *The Privacy Advocates: Resisting the Spread of Surveillance*. MIT Press, 2008. ISBN 0262260425, 9780262260428.
- Best, Kirsty. "Living in the control society Surveillance, users and digital screen technologies (<http://ics.sagepub.com/content/13/1/5.abstract>)." *International Journal of Cultural Studies*. January 2010. Volume 13, No. 1, p. 5-24. doi: 10.1177/1367877909348536. Available at SAGE Journals.
- Cofone, Ignacio N., *Nothing to Hide, but Something to Lose* (<https://muse.jhu.edu/article/743215>), *University of Toronto Law Journal* 70(1):64-90 (2020).
- Mordini, Emilio. "Nothing to Hide — Biometrics, Privacy and Private Sphere." In: Schouten, Ben, Niels Christian Juul, Andrzej Drygajlo, and Massimo Tistarelli (editors). *Biometrics and Identity Management: First European Workshop, BIOID 2008, Roskilde, Denmark, May 7–9, 2008, Revised Selected Papers*. Springer Science+Business Media, 2008. p. 245-258. ISBN 3540899901, 9783540899907.
- Moore, Adam D. *Privacy Rights: Moral and Legal Foundations*. Penn State Press, March 28, 2011. ISBN 0271036869, 9780271036861.

- *Privacy Online: OECD Guidance on Policy and Practice*. OECD Publishing, November 18, 2003. ISBN 9264101632, 9789264101630.
- Solove, Daniel J. *Nothing to Hide: The False Tradeoff Between Privacy and Security*. Yale University Press, May 31, 2011. ISBN 0300172311, 9780300172317.
- Viseu, Ana, Andrew Clement and Jane Aspinall. "Situating Privacy Online: Complex Perceptions and Everyday Practices (<http://www.tandfonline.com/doi/pdf/10.1080/1369118042000208924>)." *Information, Communication & Society* (ISSN 1369-118X). 2004. 7(1): 92–114. DOI: 10.1080/1369118042000208924. Available from Taylor & Francis Online.

Further reading

- Cofone, Ignacio N., *Nothing to Hide, but Something to Lose* (<https://muse.jhu.edu/article/743215>), University of Toronto Law Journal 70(1):64-90 (2020)
- Klein, Sascha. *"I've got nothing to hide": Electronic surveillance of communications, privacy and the power of arguments*. GRIN Verlag, Apr 26, 2012. ISBN 3656179131, 9783656179139.
- Solove, Daniel J. "'I've Got Nothing to Hide' and Other Misunderstandings of Privacy (<https://ssrn.com/abstract=998565>)." *San Diego Law Review*, Vol. 44, p. 745, 2007. p. 745. ISSN 0036-4037. Accession Number 31197940. George Washington University Law School Public Law Research Paper No. 289. - An essay that was written for a symposium in the *San Diego Law Review*. Available at Academic Search Complete, HeinOnline, LexisNexis Academic, and Social Science Research Network.
- "Surveillance and "Nothing to Hide" (<https://web.archive.org/web/20130605012147/http://www.cs.stonybrook.edu/~tashbook/spring2013/cse312/312-02-solove-privacy.pdf>)." (Archive (<https://web.archive.org/web/20130605012147/http://www.cs.stonybrook.edu/~tashbook/spring2013/cse312/312-02-solove-privacy.pdf>)) CSE/ISE 312: Legal, Social, and Ethical Issues. Stony Brook University. - PowerPoint presentation based on Solove's work.
- Moore, Adam (2011). "Privacy, Security, and Government Surveillance: WikiLeaks and the New Accountability". *Public Affairs Quarterly*. 25 (April 2011) (2): 141–156. JSTOR 23057094 (<https://www.jstor.org/stable/23057094>).

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