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Martin Lengwiler

Privacy, justice and equality

The history of privacy legislation and its significance for civil society

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Martin Lengwiler ist wissenschaftlicher Mitarbeiter beim Präsidenten des WZB; Projektgruppe “Wissenschaftspolitik”, und Privatdozent für Neuere Geschichte an der Universität Zürich

Martin Lengwiler is research fellow in the office of the WZB president; project group „Science Policy“, and private lecturer of Modern History at the University of Zurich.

Wissenschaftszentrum Berlin für Sozialforschung gGmbH
Social Science Research Center Berlin
Reichpietschufer 50, 10785 Berlin
Federal Republic of Germany

Telefon: +49/30/25491-0 E-Mail: wzb@wz-berlin.de
Telefax: +49/30/25491-684 Internet: http://www.wz-berlin.de

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Zusammenfassung

Der Beitrag untersucht die Beziehung zwischen Privatsphäre und Zivilgesellschaft in historischer Perspektive. Als Fallbeispiele dienen die neuere Geschichte der Datenschutzgesetzgebung im Allgemeinen und die Entwicklung in der Schweiz seit den 1970er Jahren im Besonderen. Die Argumentation vertritt einen interaktionistischen Ansatz. Die begriffliche Unterscheidung zwischen den Bereichen Privatsphäre, Zivilgesellschaft und Staat soll nicht dazu verleiten, die Interaktionen und Interdependenzen zwischen diesen Sektoren zu übersehen. Der Schutz der Privatsphäre soll vielmehr als Voraussetzung für soziale Gerechtigkeit und Gleichheit und damit als grundlegend für die Entwicklung der Zivilgesellschaft verstanden werden. Der erste Teil des Beitrags diskutiert unterschiedliche Definitionen für die Beziehung zwischen Privatsphäre und Öffentlichkeit und stellt zwei widersprüchliche Definitionsversuche der neueren Literatur gegenüber. Im zweiten Teil werden die verschiedenen Stufen der Datenschutzgesetzgebung seit den 1970er Jahren, im europäischen Rahmen, zusammengefasst. Es wird gezeigt, wie der rechtliche Begriff der Privatsphäre in den letzten Jahrzehnten von einem individualistischen zu einem sozialen Konzept umdefiniert und erweitert wurde. Der dritte Teil untersucht die neueren Datenschutzgesetze in der Schweiz und zeigt, dass der Schutz der Privatsphäre in der politischen Diskussion auch als Garantie bürgerlicher Rechte und als Schutz vor ungerechter Diskriminierung verstanden wurde. In der Konklusion werden schließlich die Folgerungen diskutiert, die aus der Fallstudie für das Verständnis der Beziehung zwischen Zivilgesellschaft, Privatsphäre und Staat zu ziehen sind.

Abstract

The paper examines the relation between the realms of privacy and civil society by analyzing the recent history of privacy legislation in general and the developments in Switzerland since the 1970s in particular. It argues that the conceptual distinction between the spheres of privacy, civil society and the state should not entice to ignore the interactions and interdependencies between these spheres. Instead, the protection of privacy should be understood as a precondition for social justice and equality and thus as fundamental for the development of a civil society. The first part of the paper deals with definitions for the relation between the private and the public, juxtaposing two contradicting definitions prevalent in the literature. The second part resumes the different stages of legislation in data protection since the 1970s, mainly in the European context, pointing out how the legal concept of privacy has been redefined over the past decades, from an *individualistic* to a *social* concept. The third part examines the recent privacy legislation in Switzerland and shows that the protection of privacy, for which the institutions of the government played an important role, sums up to the protection of basic civil rights, as the protection from unjust discrimination. The conclusion discusses the implications of the case study for understanding the relation between the realms of privacy, civil society and the state.

Inhalt

This paper investigates the relation between the realms of privacy and civil society by analyzing the recent history of privacy legislation in general and the developments in Switzerland since the 1970s in particular.[1] The paper argues that the distinction between the spheres of privacy, civil society and the state that underlies most definitions of civil society should not entice to ignore the important interactions and interdependencies between these separate spheres. By analyzing how privacy debates interact with the area of the civil society, the paper argues that the protection of privacy should be understood as a precondition for social justice and equality and thus as fundamental for the development of a civil society.

The first part of the paper deals with conceptual issues, notably definitions for the relation between the private and the public, as the basis of the concepts of privacy and civil society. I will juxtapose two contradicting definitions for the relation between privacy and civil society prevalent in the civil society literature. Following one of these definitions, the private-public relation will be understood as interactive and co-evolutionary. The stages and effects of this co-evolution will be illustrated in the second and the third parts of the paper. The second part resumes the different stages of legislation in data protection since the 1970s, mainly in the European context, pointing out how the legal concept of privacy has been redefined over the past decades, from an *individualistic* to a *social* concept. This development illustrates the enhanced inter-dependence between the protection of privacy and the growth of civil society. The third part examines the recent privacy legislation in Switzerland and shows that the protection of privacy, for which the institutions of the government played an important role, sums up to the protection of basic civil rights, as the protection from unjust discrimination. Thus, privacy legislation can be seen as a protection of social values like social justice or social equality. In this sense, the protection of privacy serves as a precondition for the development of a civil society. The conclusion discusses the implications of the case study for understanding the relation between the realms of privacy, civil society and the state.

1. The relation between the private sphere and civil society: two interpretations

Definitions of civil society usually distinguish civil society from the state and the market sector on the one hand and from the private sphere on the other. In this sense, civil society is usually defined by pointing at its borders with other parts of society (Gosewinkel 2003; Gosewinkel & Reichardt 2004). This definition includes an

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institutional and a practical argument. *Institutionally*, civil society is marked by non-governmental, non-profit, associative institutions (the "third sector"), set against the institutions of the state and those of the private sphere like the family. Civil society is also characterized by its own *logic of action* that, in the words of John Keane, tends to be "non-violent, self-organizing and self-reflexive", against for example the individual conduct of personal affairs within the private sphere (Keane 1998: 6; also: Cohen & Arato 1992: 15-26, 180ff.). Most authors take a similar stand as Jürgen Kocka, arguing that the relationship between civil society, the state and the private sphere is ambivalent: partly contradictive and full of tensions, partly interactive and cross-fertilizing (Kocka 2000: 22-26; Kocka 2004).

Most of these definitions, particularly in the literature on the third sector, focus on the tensions and the conflicts of civil society with the government or with market organizations (Priller & Zimmer 2001; Priller 2002; Randeria 2003). The relation between civil society and the private sphere however is less studied. Although the Habermasian distinction between the public and the private sphere lies at the core of most current concepts of civil society (Keane 1998: 160ff.), the analysis of the interaction between the private and the public is usually restricted to work in gender studies, namely its critique of the modern distinction between the public and the private (for example: Landes 1998; Rössler 2001: 187ff.).

Recent debates however about the protection of privacy, under the threats of the modern information technology or the political threats of the current rise in terrorism, have lead to an increased interest in the relation between privacy and civil society. In particular, we can distinguish two opposing interpretations for the relation between the two spheres: a *contradictive* and a *cross-fertilizing* interpretation. The first interpretation, represented for example by communitarian approaches, is based on a contradictive understanding of the two spheres. Amitai Etzioni for example understands the relation between privacy and civil society as one of irreconcilability. In his book on the "Limits of Privacy" (1999), he argues that the recent legislation for the protection of privacy poses a danger for the values of civil society. Based upon a series of case studies like forced HIV testing of pregnant women or the public "outing" of sex offenders, Etzioni maintains that the protection of privacy in recent years increasingly contradicted the needs and values of the civil society, as he understands it in his communitarian approach. He is particularly critical with the privacy debates in America and detects a pro-privacy bias in contemporary society, illustrated for example by the 1973 decision of the Supreme Court to accept the right of abortion on the ground of the privacy of the pregnant women (Etzioni 1999: 192ff.). He is also concerned with the rising power of state authorities over the civil society and concludes that "the best way to curtail the need for governmental control and intrusion is to have somewhat less privacy", combined of course with extended self-regulatory authorities of communities (Etzioni 1999: 213f.). For his radically communitarian approach, the values of the civil society have to prevail over the interests of individuals. "Communitarians (...) hold that important social formulations of the good can be left to private choices - provided there is sufficient communal

scrutiny!" As the community relies on the fostering of "prosocial conduct" by communal recognition and censure, it also requires "the scrutiny of some behaviour, not by police or secret agents, but by friends, neighbors, and fellow members of voluntary associations." (Etzioni 1999: 213).

Although, Etzioni represents a radical position within the civil society literature, the notion of some contradictive tension between civil society and the private sphere is nearly common sense. Following a Habermasian account, the dominant view of the literature is that the historic constitution of the public sphere and the realm of civil society depended on the parallel constitution of the modern concept of privacy. Whereas Etzioni's approach sees the two realms as irreconcilable, the Habermasian tradition understands the tension as a cross-fertilizing relation. Keane for example, based upon Habermas' thesis of the transformation of the public sphere, argues that the process of modernization included a differentiation of society into relatively independent subsystems. For Keane (following Habermas) the public sphere, and with it the realm of the bourgeois civil society, originated from the bourgeois opposition to the aristocratic governments of the Ancien régime. The same opposition also inspired the bourgeois concept of the private sphere of individuals and families (Keane 1998: 158-163; Habermas 1990: 225ff.). Thus, since the late-eighteenth-century, civil society gradually separated itself from state authorities. The constitution of the public sphere and the rise of the private sphere are seen as simultaneous and closely related transformations. The nineteenth century is thus marked by the "polarization of the social and the intimate sphere", after which the public and the private spheres emerged as two interdependent sectors of the bourgeois society. As a result of this, civil society today is built upon its own logic of action, "permanently in tension with (…) the state institutions that 'frame', constrict and enable (its) activities" (Keane 1998: 6, 158-163; Habermas 1990: 225ff., 238-247; similarly: Weintraub 1997: 15f.; Kocka 2002). Keane understands the contemporary relation between the public and the private as increasingly contradictive. He suggests that the contemporary rise of civil society and the politicization of the public sphere lead to the disappearance of the realm of privacy as is harder today to justify any action as a private matter (Keane 1998: 183).

The cross-fertilizing interpretation understands the relation between the private and the civil society sphere as interactive or even co-dependent. This line of argument is particularly common in feminist research questioning the opposition between private and public spheres since the 1970s (Weintaub 1997: 27-34). Jean Cohen for example, in her work on the abortion controversy in the U.S., maintains that privacy rights are not in opposition to the values of a democratic civil society - rather the opposite. "Privacy rights are meant to ensure certain domains of decisional autonomy to every individual, not an atomist or voluntarist conception of the individual. They protect one's decisional autonomy vis-à-vis certain crucially personal concerns, they do not dictate the kinds of reasons one gives for decisions or the reflective processes informing the decisions." (Cohen 1992: 97). Cohen understands the concept of privacy not as a *seclusive* but as a *decisional* term - as the right of individuals to

choose in what form they want to be part of the larger society. In this sense, privacy becomes a precondition for the plurality of the civil society. "What, if not a right to personal privacy (securing control over access and decision making to the individual), protects the variety of identities of individuals and groups living in modern civil societies from levelling in the name of some vague idea of community values or the majority's conception of the common good?" (Cohen 1997: 153). The German philosopher Beate Rössler has taken a similar stand. She distinguishes three dimensions of privacy: a local dimension, illustrated by the private home, an informational dimension, based around the intimate and personal information about individuals, and a decisional dimension, which she also refers to the abortion debate. Although she understands the links between the private and the public as ambivalent and dissonant, Rössler's basic argument remains that the protection of privacy allows citizens to lead an autonomous life and therefore serves as a precondition for the liberty of a liberal society (Rössler 2001: 39f. 144ff., 201ff., 255ff.).

In a more general sense, the history of the family, a paradigmatic institution of the private sphere, has been used as an example to show that civil society partly depends on the values of the private sphere. Jeff Weintraub for example, following Philippe Ariès' "History of Private Life", argues that the "private realm of domesticity" is not a realm of isolated individuals or of individualism. He understands the private sphere rather as a precondition for social interactions on the level of civil society. "On the contrary, the family is (to a greater or lesser extent) a collective unit, constituted by particularistic ties of attachment, affection, and obligation; and the modern family has characteristically been understood - and idealized - precisely as a refuge against the self-interested individualism and impersonality of civil society." (Weintraub 1997: 18f.) Anthony Giddens, in his work on the transformation of intimacy, has also analyzed the changing notion of intimacy in the second half of the 20th century and stresses that intimate spheres, like the family or other forms of partnership and friendship, were influenced by feminist and gay movements and thus gradually democratized over the past decades. In Giddens' view, this transformation of intimacy strengthened values such as the liberal autonomy of individuals or the pluralism of society in general (Giddens 1992: 184-190).

From a historian's perspective, Gunilla-Friederike Budde has taken a similar line of argument. Examining the social and political activities of bourgeois women in the 19th century, Budde claims that the political activities of women were not separated from the family but depended upon family networks and relations of kinship. The family acted as a testing ground where female actors seized the opportunity to practice a "culture of civility" ("Kultur der Zivilität"; Budde 2003: 72f.). Thus, Budde transforms the institution of the bourgeois family from a private institution into an agency for the civil society. This is only possible as Budde's concept of civil society refers to a particular mode of *agency*, not to fixed social *spaces* or *spheres*, which allows her to build a bridge between the privacy of the family and public areas of 19th century societies and to examine the interactive, cross-fertilizing processes.

The example of the family is a reminder that the differentiation of modern societies into distinct sectors or sub-systems had an ambivalent effect. On the one side the emergence of separate social sectors also constituted separate logics of action according to the sectors. But the differentiation also increased the tension and the need for coordination between the different sectors. It is helpful to borrow from a model of Peter Weingart, with which he recently tried to analyze the tensions between the sub-systems of politics and science in current debates about food and health risks. Weingart's model is based upon Niklas Luhmann's system theory, particularly upon the notion of a structural coupling ("strukturelle Koppelung") between separate social sub-systems. Following Luhmann's model, Weingart assumes both, a process of social differentiation leading to separate social sectors *and* increasing processes (and problems) of co-dependency and coupling between the sectors (Luhmann 1977; Weingart 2001: 13f., 127f.). Such a model helps to explain the seeming contradiction between the formation of separate social sectors, for example the polarization between the private and the public in the 19th century, and the persisting and often conflictive cross-fertilization processes between the sectors. We will get back to this system theory perspective in the concluding part of this paper.

2. Towards a social conception of privacy: the transformation of privacy in recent legislation

Apart from studies in gender history, our understanding of the relation between the realms of privacy and civil society remains sketchy (see also the contributions to: Weintraub 1997). The following case study intends to historicize the notion of privacy and its relation to civil society. It specifies the public-private relation by drawing on the recent history of legislation in data protection and the changing legal notions of privacy. The case shows that as an effect of the legal debates the concept of privacy changed from an individualist to a social concept, thus also increasing the inter-dependence between the realms of the private and the public, not least by giving rise to a variety of civil society activism around the protection of privacy.

Privacy, understood as the protection of the private sphere and of the personal integrity of individuals, is a fundamental civil right of modern democracies with a long tradition. Already before 1800, notions of privacy and secrecy were incorporated into the behavioural codes of certain trades and professions. The trade secrecy of merchants for example, the professional secrecy of lawyers, the medical secrecy of physicians or the confessional secrecy of priests - they were all precursors for contemporary regulations of privacy and data protection (Moore 1984: 285-288). The classic definition, upon which most modern privacy legislation is based, goes back to the 1880s and to legal debates in the U.S. about the intrusion of early tabloid

journalism into the private life of celebrities. Among the most influential statements for the legal protection of privacy was an article of Louis Brandeis and Samuel Warren, two American lawyers, published in the Harvard Law Review. Under the title of "The Right to Privacy", the article demanded that in a liberal democracy the privacy of citizens should be legally protected as a core civil right. Famously, Brandeis and Warren defined privacy as the "right to be left alone" (Brandeis & Warren 1890).

This classic definition refers to a *liberal or individualistic* notion of privacy as an area of human activity secluded from the public sphere and protected from the inspection of outsiders. In his seminal book on "Regulating Privacy", political scientist Colin Bennett also deals with this traditional concept of privacy calling it the *humanistic* dimension of the concept that is based upon the dignity, individuality, integrity and personality of individuals (Bennett 1992: 22ff.). This liberal approach also shaped the academic interest in the analysis of privacy. Until the 1970s, privacy has mainly been studied in legal terms, whereas in social sciences it was only of marginal interest (Westin 1967: XI). One of the rare exceptions is Georg Simmel's study on the social meaning of secrets (Simmel 1908). The missing interest had a simple reason. Following the liberal tradition, the concept of privacy was opposed to the social worlds of community, politics and publicity (for example: Moore 1984: 267f.). As the "right to be left alone" and in opposition to the realm of society, privacy was thus an anathema for social sciences.

This changed with the arrival of modern information technologies, notably the rise of the computer since the 1960s. Since the arrival of the first computers in the mid-sixties, the private sphere of citizens and consumers has been repeatedly threatened by waves of technological innovations: from the first central business computers in the 1960s over the success of the personal computer in the 1980s to the arrival of the internet in the 1990s. Technological challenges were followed by successive waves of legislation, starting in Europe with the first legislation in the German state of Hessen in 1970, and in America with the Privacy Act of 1974 (Rotenberg 1999). The close co-development between technological threats and legislative responses is mirrored by the term "data protection" (in German "Datenschutz") under which most European privacy laws were signed (Mayer-Schönberger 1997). Against this background, the ongoing controversies over how to protect privacy after September 11, 2001, are just the last stage of a confrontation between technological opportunities of control and surveillance and the assertion of privacy as a central civil right of the emerging information society.

In this legislative process, the concept of privacy changed its meaning with the debates around data protection. The spread of information and communication technologies since the 1960s challenged the traditional legal framework with its individualistic notion of privacy. As an effect of this, privacy debates changed in two important ways. First, the concept of privacy was redefined *from an individualistic to a*

social concept, and second, the debates around the protection of privacy formed the nucleus around which several new social movements emerged.

How did the meaning of privacy change on a conceptual level? The opportunities of information technologies to collect, exchange, distribute and network personal data undermined the dichotomy between the public and the private, and thus the liberal concept of the personal sphere (Lyon & Zureik 1996: 13). Since the late 1960s, many institutions of the state and the private economy, like the insurance or the banking industry, took advantage of the opportunities of the computer technology and began to build new databases or make their existing ones more effective. Public concerns about the lacking democratic control over these databases – with the dystopia of an Orwellian 1984 – were behind most of the modern privacy laws since the 1970s. The first wave of legislation primarily addressed the data management of government authorities. The USA introduced its Privacy Act already in 1974 with a liberal, decentralized system of public control. The Privacy Act lacked a central authority for the oversight of data protection and was rather built upon the principle of decentralized self-regulation, granting the main responsibility for securing privacy to codes of fair information practices, and, in cases of misconduct, to the initiative of citizens and the power of the court system (Bennett 1992: 198-200). European countries took a more interventionist stand, often stipulating independent supervisory authorities for controlling the compliance with data protection legislation, since the 1980s increasingly also in the private sector (Flaherty 1989: 406). Since the 1980s, most European countries introduced watchdog authorities, in Germany the "Bundesbeauftragter für Datenschutz", in Switzerland the national "Datenschutzbeauftragter", in France the "Commission Nationale de l'Informatique et des Libertés" (the CNIL), in Britain the "Data Protection Registrar" (Bennett 1992: 196f.; Sauter 1995: 44ff., 71ff., 165ff.).

Crucially, modern privacy legislation since the 1970s did not try to prohibit mass collections of personal data. The protection of personal data was not an issue of *seclusion* anymore, or of how to hide data. Instead, it became a matter of how to design appropriate guidelines for the *management and distribution* of personal data. Often in current debates on the protection of privacy, the question is not anymore how to prohibit personal data from being disclosed but how to build more democratic forms of data management. Specifically, the networking of large databases and the decentralized management of mass data over the internet faces the problem of how to build participatory forms of management and access to these databases (Agre 1997; Mayer-Schönberger 1997: 232f.; Bowker & Star 1999: 316f.).

Modern privacy legislation is therefore characterized by principles for the adequate management of personal data by government authorities and private corporations. These principles included the right *of informational self-determination* by the data subject, meaning that the data collecting authority was only allowed to collect, manage and distribute personal data with the agreement of the person giving his or

her personal data (the so called principle of 'informed consent'; Flaherty 1989: 7). In the late sixties, Alan Westin, a professor of public law at Columbia University, was among the first to rephrase a new concept of privacy more appropriate to the technological developments. Whereas in the liberal tradition, privacy was defined in negative terms (no intrusion, no violation of the private sphere), Westin formulated a positive and sociological definition of privacy as "the claim of individuals, groups, or institutions to determine for themselves when, how, and to what extent information about them is communicated to others" (Westin 1967: 7). Thus, with the spread of information technologies, privacy has been transformed from the *negative* right "to be left alone" to the *positive* right of what is now commonly called the right of "informational self-determination" (Flaherty 1989: 7). Germany for example officially introduced the principle of informational self-determination after a ruling of the federal constitutional court (Bundesverfassungsgericht) in 1984.

Today, the right of informational self-determination is included in most privacy legislation and is seen as one of the new civil rights of the emerging information society (Rotenberg 1998: 8ff.). David Lyon and Elia Zureik conclude that similar to information as a truly social entity, privacy has become a *social* value (Lyon & Zureik 1996: 13). And Colin Bennett argues that the humanistic dimension of privacy, as mentioned above, has been gradually replaced by a political and instrumental notion of privacy. Political, because with the threats of computer technologies, privacy has become a barrier against technological surveillance and thus a prerequisite of a pluralistic democracy. And instrumental as the regulation of data management can today been achieved by the regulation of privacy. Thus, privacy has become a social issue. In this sense, the intention of recent privacy legislation to regulate the *institutional management and social distribution* of personal data differs fundamentally from the traditional privacy legislation that secured that personal data remained completely hidden from outsiders' access.

The social concept of privacy shows that today the distinction between the private and the public sphere is not as clear cut anymore as it was with the liberal concept of the private sphere in the late 19th century. Under the current technologically advanced circumstances, the private sphere is not separated but always already entangled with the public sphere. Private information is not safeguarded anymore in the hands or one individual on in the pages of a diary anymore. Rather, it is constituted, managed and stored in a social environment. Private information and the protection of privacy have become socially and politically administered issues. The question is not anymore where to draw the line between the private and the public, but how to prevent that the social and political administration of private information can be organized to prevent discriminatory uses of personal information.

The concept of privacy did not only change on a conceptual level, the issue of privacy also began to appeal to new social groups. Whereas the traditional concept was defined as the right of *individual* citizens, the rise of information technologies

newly confronted specific *groups* with the erosion of their privacy, for example consumers, hospitalized patients or holders of insurance policies. Privacy became the concern of several special interest groups, from left-wing political activists to consumers' rights organizations. In Germany for example, the governments' census project in 1981-83 sparked a grass-roots movement opposing the handing out of personal data to the state. The census was termed an intrusion into the private sphere and an infliction of civil rights. The movement was particularly strong among alternative and civil rights groups but also included a conservative opposition suspicious of a big government approach that it saw behind the project. This broad coalition of civil society groups organized a boycott (the "Volkszählungsboykott") that eventually brought down the project. In 1984 the federal constitutional court ruled in the landmark sentence, mentioned above, that the census project had to oblige the principles of privacy and data protection, in particular the principle of informational self-determination. In the aftermath of this sentence, the government changed the system of censuses, replacing the large macro-census (questioning the whole population) by a system of multiple representative micro-censuses (Pfetsch 1986; Kühnel 1993).

Germany was not the only country in which the public and political debates around the protection of privacy sparked a movement on the civil society level. In Australia, the plans of the government to introduce an identity card in 1987 was equally met by a popular opposition, which first led to a crisis of the government before the ID-project was eventually dropped. Also in the US and in Britain, similar projects for a national identity card have repeatedly been blocked by popular opposition, most recently in Britain in 2001, after the terrorist attacks of September 11 (Davies 1997: 145-149; Flaherty 1989: 45ff.). Also, the spread of the internet in the 1990s was followed by a mushrooming of privacy activism (for example the Electronic Privacy Information Center: www.epic.org). Finally, as data confidentiality can now be seen as an economic good, the protection of privacy has also become part of a customer-friendly business strategy (Bennett 1992: 31-35). Simon Davies, an Australian researcher and director of "Privacy International", even argued that the changing concerns of consumers mirror a broader transformation of the status of privacy. With the new technical opportunities for private corporations to manage personal data (data warehousing, data mining, etc), privacy is currently being transformed from a civil right of citizens into a commodity of consumers (Davies 1997: 145, 156ff.).

Thus, since the 1970s, the main political actors for the protection of privacy were organizations of the civil society. Paradoxically, an issue of the private sphere led to increased activities on the level of the civil society, because both, individuals and organizations of the civil society felt threatened by their common enemy, the alleged technological superiority of the "surveillance state".

3. Privacy, justice and equality: privacy legislation in Switzerland since the 1970s

But also in another sense, the protection of privacy is linked to the conditions of a civil society. Privacy legislation aims at the protection of personal data from misuse through institutions like the government or private firms. In practice, this amounts to the ban of a discriminatory use of certain personal data of individuals. In other words: Privacy protection aims at treating individuals as equal persons, disregarding some of their individual differences, which are designated as private and irrelevant for the public. Thus, the protection of privacy is a precondition for social justice in the public sphere, allowing individuals to act as equals. To illustrate this, I will briefly discuss the implementation of privacy legislation in Switzerland since the 1970s.

This case study is also a reminder for the changing institutional context of the regulation of privacy. Today the problem of government surveillance that dominated the debates of the 1970s and 1980s is mainly replaced by the critique of the way businesses and corporations deal with privacy. Under these changed circumstances, government authorities, particularly those concerned with the implementation and supervision over privacy legislation, have become allies for the protection of privacy against business and market interests. Thus, it is misleading to oppose the privacy interests of individuals against the interests of governments, as for example in the traditional critique of the surveillance power of government authorities. The Swiss case is marked by the determined opposition of the private sector against the introduction of privacy legislation and is therefore a telling example for the shifting alliances between privacy advocates (individuals or associations), government authorities and business organizations.

Privacy legislation in Switzerland was generally inspired by legislation in other European countries and organizations on the European level. Although Switzerland was neither part of the European Economic Community nor later of the European Union, it was still a member in other European and international organizations, such as the Council of Europe or the OECD. Therefore, Swiss legislation closely followed the deliberations of international and European organizations since the late 1970s, particularly the Convention for data protection of the Council of Europe in 1980 and later the Directive of the European Union after 1995 (Schweizer 1999: 37; Brun 1999; from the perspective of international organizations: Bennett 1992: 130-140).

After 1980 several international organisations, in which Switzerland was an active member, came out with the first generation of regulation on data protection, notably in 1980 the OECD with its Privacy Guidelines, and one year later the Council of Europe with its Convention on Privacy (Brainbridge 1996: 15-18; Bennett 1992: 133-140). This Convention had an immediate effect on Swiss legislation by setting off a ratification process and a public debate on the protection of privacy (Nabholz 1993: 1f.). The Swiss government appointed a commission to work out the proposal for a

national law for data protection. One of its sub-commissions particularly focused on the protection of medical data in the life insurance market (EJPD 1984: 1-7).

The private sector, particularly the banking and insurance industries, fiercely opposed the proposed law. Apart from their general opposition to public interventionism, the insurance industry feared that they would have to change their practices of managing customers' data. Most controversial was one particular data base, maintained by the professional association of life insurance companies. This "Association of Swiss Life Insurance Companies", established in 1891, was not only an institution for political and cartelistic coordination, it also acted as the host of a centralized database into which all associated companies were asked to contribute at least the names of all applicants and policy holders with so-called "substandard risks". The term of substandard risks refers to a traditional distinction of the insurance industry between normal or standard applicants to be insured with normal contracts and applicants with physical or other ailments either to be excluded from insurance contracts or to insured with a surcharge on the premium. The definition of substandard risks included mainly chronic illnesses with a high mortality risk: tuberculosis, cancer, syphilis, diabetes, or heart diseases, but also mental illnesses or disabilities (Stévenin 1968).

The centralized database was formally called the "Notification Pool for Abnormal Risks" ("Mitteilungsverband für abnormale Risiken"). The data in the "Notification Pool" was accessible to any company associated, but hidden from the knowledge of the customers. As soon as an insurance company was approached by a new applicant, the insurance checked the records of the notification pool, usually without telling the applicant about the inquiry. If the applicant was registered as an "abnormal risk", the company would either turn the application down or grant a restricted policy only. Usually, the applicants would not learn what led to the insurance's decision. The hope of the association of life insurers was that its notification pool would prevent customers with substandard risks from cheating the insurance company by hiding their illnesses. Often, the data that the insurance companies delivered for the centralized database included not only the applicant's name and the decision of the insurance, but also information on the reasons for the decisions or even the complete medical record of the applicant (Archives Zurich Insurance: Q 123 204: 42417, documents of 19 April 1994; 3 May 1994).

The notification pool was practically undisputed until the 1980s, presumably because hardly anybody outside the insurance industry knew about it. In 1984 the government commission destined to work out a data protection law started to examine the insurance industry and soon found out about the notification system. The commission openly criticized the practice in its published report as discriminatory, pointing out that building up an information pool without the knowledge and consent of the people affected was presumably illegal. The reported claimed that the insurers should at least inform the applicants about the pool and ask for permission to check it (EJPD

1984: 122-124). The report stirred a public controversy in which the insurance industry was widely criticised for the unjust practices around its secret database (for example in the TV consumer's program "Kassensturz", in a report by Irene Loebell, Schweizer Fernsehen DRS, 17 September 1984).

The controversy about the notification system was just one element of the larger debate about the data protection law. As the commission finished their work with a proposal for a data protection law, the insurance industry, assisted by the banking sector and the national chamber of commerce, tried to prevent the legislation (Neue Zürcher Zeitung, 9.11.1984, section "Inland"; similarly for other European countries: Pearce & Platten 1998: 535). In its consultation report, the Swiss Insurance Association dismissed the proposal as a "fundamentally flawed" and a "monstrous" law (Archives Zurich Insurance: Q 123 204: 30492, letter of 18 Sept. 1984). They argued for a leaner version of the law that would not be applicable to the private sector at all. Eventually, the combined opposition of banks and insurances succeeded in bringing down the proposition during the parliamentary debates.

After this failure, it took another eight years until in 1993 the political authorities succeeded with a revised proposal for a data protection law. The second attempt was successful not because the financial sector suddenly changed its mind but because the political context for privacy concerns fundamentally changed after 1989. Generally, with the end of the cold war government intelligence services, particularly those spying on their own population, lost most of their political legitimacy that was built upon the political antagonisms of the cold war period. Switzerland was particularly hit as a parliamentary commission revealed that during the cold war the secret service of the government (the "Staatsschutz") had built up and managed a secret database with files on 900'000 persons, mostly Swiss citizens. In the public and political reaction this practice was unanimously seen as undemocratic and scandalous. Several grassroots organizations successfully launched a referendum for the partial abolishment of the secret service. Eventually in 1998, the proposition failed in the vote, but only after the secret service was profoundly reorganized. As an indirect effect of the scandal, the advocates and parties favouring a strong data protection law gained enough public support to bring together a parliamentary coalition in favour of the proposed legislation (Lempen 1995: 75-82). Under these circumstances, the insurance industry stopped its fundamental opposition and argued instead for a weaker version of the law. In the end, the proposal accepted by the parliament included a compromise. The new office for data protection was smaller than in the original proposal, but the law still applied for both the public *and* the private sector (Nabholz 1993; Schweitzer 1993). In the end, the power of the financial services industry was able to delay but not to prevent a data protection legislation that also applied for the private sector. Still, their opposition was the reason why Switzerland was among the latest western European countries to legislate its data protection.

The law of 1992 was also the end of the notification pool of the private insurance industry. After the introduction of the law, the legal departments of major insurers became sceptical about the legality of the notification system of the Association of Life Insurances. By collecting, storing and using personal data without the consent of the data subject, the practice was at least in contradiction to the right of informational self-determination. Apparently, in the last years of its existence, the system did not work properly anyway. Some major insurance companies reduced the amount of notifications in a significant manner, and some insiders already questioned the value of the information pool. Finally, one of the market leaders, the "Winterthur Life" pulled out of the system, causing a domino effect. As two other major insurers, the "Swiss Life" and the "Zurich" joined the first drop out, the whole notification system collapsed.

The centralized system of the notification pool was replaced with a decentralized system of data bases managed by each insurance company. Nowadays, information on physical ailments is still regularly checked before signing an insurance contract. The crucial difference between the old and the new system is the compliance with the principle of informational self-determination. All storage and use of personal data is based upon the approval of the data subject, who is asked to sign a respective declaration with his or her contract. In this new procedure, the applicant is theoretically free to grant or refuse the authorization for further uses of his or her personal data (Winterthur 2000). But obviously, applicants are acting under constraint – if they refuse the signature, they will not get the insurance contract applied for. Thus basically, the notification pool is still in existence, only that contract holders now know that their personal data can be disclosed to other insurance companies.

This change from a hidden to a visible and approved notification pool can be seen as an indicator for an increasing self-governance of individuals within a modern “insurance society”, in the way that François Ewald has argued it in his “L’État Providence” (1986). In Ewald’s view, insurance institutions, namely within developed Welfare states, changed modern society fundamentally into an “insurance society” (“société assurantielle”). Insurance practices are seen as new “disciplinary” techniques (Ewald, 1986, pp. 1-15, 381-384). Ewald's study is only the most prominent example of a group of works that apply Foucault’s concept of “governmentality” to the topic of insurance. The concept of governmentality points at new ways of modern state government, based upon the administration of the bodies and minds of the subjects – stressing the important link between the power of state authorities and the subjectification of individuals. With this concept, Foucault and others also aimed at displacing a state-focused concept of power with the idea of a plurality of governing institutions and with their respective technologies of power (Foucault, 1982, 1991; Dean, 1999; Knights & Vurdubakis, 1993). The case of the notification pool illustrates that not only the Welfare state with its public social insurances but also the private insurance system is marked by the development of a modern, insurance-related “governmentality” (Lengwiler 2003).

The case is also an illustration for a general tendency in the recent history of privacy legislation. In the 1970s and 1980s, most legislation focused on the data collections of government authorities, following the criticisms of the surveillance powers of governments (Bennett 1997: 103; Bennett 1992; Flaherty 1989). The main instruments of early privacy laws were public authorities, partly within the government administration, partly semi-independent, like ombudsmen for data protection or privacy watchdogs. Their main task was to control government practices and act as an address for complaints of citizens (Bennett 1992: 158-161). In recent years however, the focus of privacy legislation has shifted from state institutions to organizations of the private economy. The public sector is now adequately controlled by central regulations and by supervision of independent institutions whereas the private sector often still counts on the force of self-regulations, like fair-information practices and codes of conduct (Rothenberg 1998). Even in countries like Switzerland, where since 1995 the data protection law applies to both sectors, the implementation of legal regulations in the private sector faces serious problems. For example, the Swiss Deputy for Data Protection (the "Eidgenössische Datenschutzbeauftragter"), the main independent privacy watchdog, often struggles to get the appropriate information on data management practices in private companies possibly inflicting privacy legislation (Tätigkeitsbericht 1994/95: section 6.2.; Tätigkeitsbericht 1998/99, section 7.12.). Consumers are faced with the similar difficulty that they often don't even know how their personal data is being used by private companies (Schweizer 2001).

In this situation, the interest of individuals and groups for the protection of their privacy matched with the goal of government authorities set up for the implementation of privacy legislation. The tension between privacy activists and government authorities, that still marked the 1970s and 1980s (Davies 1997: 145, 156ff.), has been replaced by a pragmatic alliance between the two groups - an alliance built upon the joint opposition against the power of institutions of the private economy.

The case of the "notification pool" of the Swiss insurance industry also points at the significance of the protection of privacy for the civil society. In this typical case, the protection of privacy prevents the misuse of personal data for discriminative practices as the exclusion of individuals from access to insurance without their knowledge. The data stored in the notification pool are typical for that sort of private information that is protected by privacy legislation: information about an individual's state of health, his or her personal biography or current personal habits. Generally speaking, the protection of privacy aims at making differences on the private, personal level irrelevant for assessments and decisions in the public or the economic sphere. In other words: the protection of privacy is a mechanism to suppress the use of discriminatory information in situations where it is deemed illegitimate. It is a mechanism to force institutions and organizations to treat individuals as equal and in a just way, disregarding their personal differences. In this sense, the protection of privacy can be seen as a condition for social justice and social equality. If we follow

Jürgen Kocka in defining civil society as a type of non-conflictive, peaceful social action recognizing "plurality, difference and tension" (Kocka 2004: 69), the protection of privacy becomes a central prerequisite for the organization of the civil society.

4. Conclusion

The case study of recent legislation for the protection of privacy points out two characteristics of the relation between civil society and the private sphere: the significance of the private sphere as a precondition for civil society and other important cross-fertilizing processes between the private and the public sphere.

1. The development of privacy legislation shows that the privacy and its protection is a precondition for social justice and equality and therefore for a pluralistic civil society. The history of data protection, notably since the 1970s, has witnessed a fundamental change in the definition of privacy. The traditional *negative, individualistic* meaning of the term, in the sense of the "right to be left alone", has gradually been replaced by a more *positive, social* meaning of privacy: as the right of "informational self-determination". In other words, the individual has the civil right to determine the way his or her personal information is used in different social contexts. Privacy has become the privileged norm for responsible use of personal information by corporations and government authorities. Today, privacy is seen as a modality of socially responsible interactions among informational subjects of the information age. In this sense, the institution of privacy rights does not lead to an atomistic but rather to a pluralistic society. This conclusion joins the related argument of Giddens, Cohen or Rössler mentioned above. Giddens argues that the democratization of intimacy of the past decades has not only strengthened the autonomy of individuals but also the plurality of modern societies (Giddens 1992). Similarly, Cohen and Rössler support a definition of privacy not in opposition but in correlation to the concept of civil society. Referring to the abortion debates, they propose a *decisional* concept of privacy, ensuring the decisional autonomy of individuals over how they want to join the sphere of civil society (Cohen 1997; Rössler 2001: 144ff.). The analysis of recent privacy legislation confirms this assessment. To keep personal information private has become an important condition that individuals are publicly treated as equals and can act socially on this democratic basis.

But it has to be reminded that the effects of the decisional concept of privacy are ambivalent. At first sight, the increased autonomy of individuals looks like a civic empowerment. But as the case study shows, it also means – in Foucault's words – an increasing "governing of the self". In practice, the right of informational self-determination does not mean that the individuals' privacy is always better protected; it can also mean that individuals are facing increasing constraints to voluntarily

disclose their personal data. In this sense, the civic empowerment by recent legislation in data protection can also be interpreted as a new form of a more subjective form of an insurance-related governmentality.

2. Recent privacy debates also reveal important alliances and cross-fertilizing effects between individuals, privacy advocacy groups and state authorities. The case study shows that the distinction between social spheres, as the private sphere, civil society and the state, should not lead to overlook the interactions between the sectors. Following Weingart's model, we can state that there the process of social differentiation is indeed combined with increasing co-dependencies and structural couplings, although often in the form of contradictive tensions, between different sub-systems (Weingart 2001). One important form of these couplings emerged out of the relation between civil society and the state. In the 1970s and 1980s, the threats of modern technologies to the privacy of individuals became the starting point for collective action and for various forms of privacy activism which mainly acted in the context of civil society. The main targets of these criticisms were government authorities and private corporations. Since the 1980s, privacy debates were marked by a strategic situation. With the institutionalization of privacy watchdogs as part of state bureaucracies, the political alliances have shifted. Nowadays, most of the problems of privacy legislation relate to the private economy. Thus, over the past decade, organizations of the private market have replaced the state as the focus of privacy debates, and associations and parties supporting privacy proposals increasingly cooperated with government authorities. The case illustrates a situation rarely reflected in the civil society literature. In a society with particularly strong market institutions, the alliance between organizations of the civil society and institutions of the state can be an effective way to strengthen the sphere of civil society.

5. Bibliography

Agre, Philipp & Rothenberg, Marc (eds.) (1997). Technology and privacy: the new landscape. Cambridge, Massachusetts: MIT Press.

Agre, Philip E. (1997). Introduction. In: Agre & Rothenberg (1997). p. 1-28.

Bennett, Colin J. (1999). Convergence Revisited: Toward a Global Policy for the Protection of Personal Data? In: Agre & Rothenberg. p. 99-124.

Bennett, Colin J. (1992). Regulating Privacy. Data Protection and Public Policy in Europe and the United States. Ithaca: Cornell University Press.

Bowker, Geoffrey C., Star, Susan Leigh (1999). Sorting Things Out. Classification and its Consequences. Camebridge MA: MIT Press.

Brainbridge, David (1996). EC Data Protection Directive. London: Butterworths.

Brandeis, Louis & Warren, Samuel (1890). The Right to Privacy. In: Harvard Law Review, 5, p. 193-220.

Brun, Alain (1999). La directive européenne relative à la protection des données: convergences et divergences. In: Epiney, Astrid, Freiermuth, Marianne (Hg.), Datenschutz in der Schweiz und in Europa, Freiburg: Universitätsverlag Freiburg Schweiz. p. 11-24.

Budde, Gunilla-Friederike (2003), Das Öffentliche des Privaten. Die Familie als zivilgesellschaftliche Kerninstitution, Ms.

Cohen, Jean L., Arato, Andrew (1992). Civil Society and Political Theory, Massachusetts: MIT Press.

Cohen, Jean L. (1992). Redescribing Privacy: Identity, Difference and the Abortion Controversy, in: Columbia Law Journal 3 (1992).

Cohen, Jean L. (1997). Rethinking Privacy: Autonomy, Identity, and the Abortion Controversy, in: Weintraub, Jeff, Kumar, Krishan (eds.), Public and private in thought and practice: perspectives on a grand dichotomy, Chicago: University of Chicago Press, p. 133-165.

Davies, Simon G. (1997). Re-Engineering the Right to Privacy: How Privacy Has Been Transformed from a Right to a Commodity. In: Agre & Rothenberg (1997). p. 143-166.

Dean, Mitchell (1999). Governmentality. Power and rule in modern society. London: Sage.

EJPD (Schweizer, Rainer J., Red.) (1984). Datenschutz im Medizinalbereich. Bericht einer vom Bundesamt für Justiz eingesetzten Arbeitsgruppe. Bern: Bundesamt für Justiz.

Etzioni, Amitai (1999). The Limits of Privacy, New York: Basic Books.

Ewald, François (1986). L'Etat providence. Paris: Grasset.

Flaherty, David H. (1997). Controlling Surveillance: Can Privacy Protection Be Made Effective? In: Agre & Rothenberg (1997). p. 167-192.

Flaherty, David H. (1989). Protecting Privacy in Surveillance Societies. The Federal Republic of Germany, Sweden, France, Canada, and the United States. Chapel Hill: University of North Carolina Press.

Foucault, Michel (1982). The Subject and Power. In Hubert Dreyfus, Paul Rabinow (Eds.). Michel Foucault: Beyond Structuralism and Hermeneutics (pp. 208-226). Chicago: University of Chicago Press.

Foucault, Michel (1991). Governmentality. In G. Burchell, C. Gordon, P. Miller (Eds.). The Foucault Effect. Studies in governmentality (pp. 87-104). Hemel Hempstead: Harvester-Wheatsheaf.

Giddens, Anthony (1992). The transformation of intimacy: sexuality, love and eroticism in modern societies. Cambridge: Polity Press.

Gosewinkel, Dieter (2003). Zivilgesellschaft – eine Erschliessung des Themas von seinen Grenzen her. Discussion Paper Nr. SP IV 2003-505. Berlin: WZB.

Gosewinkel, Dieter, Reichardt, Sven (Hrsg.) (2004). Ambivalenzen der Zivilgesellschaft. Gegenbegriffe, Gewalt und Macht. Discussion Paper Nr. SP IV 2004-501. Berlin: WZB.

Habermas, Jürgen (1990). Strukturwandel der Öffentlichkeit. Untersuchungen zu einer Kategorie der bürgerlichen Gesellschaft. Frankfurt am Main: Suhrkamp (English: The structural transformation of the public sphere).

Keane, John (1998). Civil Society. Old Images, New Visions. London: Polity Press.

Knights, David, Vurdubakis, Theo (1993). Calculations of Risk: Towards an understanding of insurance as a moral and political technology. Accounting, Organizations and Society, 18, 729-764.

Kocka, Jürgen (2000). Zivilgesellschaft als historisches Problem und Versprechen, in: Hilfermeier, Manfred, Kocka, Jürgen, Conrad, Christoph (eds.), Europäische Zivilgesellschaft in Ost und West. Begriff, Geschichte, Chancen, Frankfurt a.M.: Campus, p. 13-40.

Kocka, Jürgen (2004). Civil society from a historical perspective. In: European Review, Vol. 12/1, p. 65-79.

Kühnel, Steffen-Matthias (1993). Zwischen Boykott und Kooperation: Teilnahmeabsicht und Teilnahmeverhalten bei der Volkszählung 1987. Frankfurt/M: Lang.

Landes, Joan B. (Hg.) (1998). Feminism, the Public and the Private, Oxford: Oxford University Press.

Lengwiler, Martin (2003). "Technologies of Trust: Actuarial theory, insurance sciences, and the establishment of the Welfare state in Germany and Switzerland around 1900", in "Information and Organization", vol. 13/2, p. 131-150.

Lempen, Blaise (1995). Révolution informatique et changement social. Lausanne: réalités sociales.

Luhmann, Niklas (1977). Theoretische und praktische Probleme der anwendungsbezogenen Sozialwissenschaften: Zur Einführung. In: Interaktion von Wissenschaft und Politik. Theoretische und praktische Probleme der

anwendungsorientierten Sozialwissenschaften, ed. by the WZB. Frankfurt/M: Campus. p. 16-39.

Mayer-Schönberger, Viktor (1997). Generational Development of Data Protection in Europe. In: Agre & Rothenberg (1997). p. 219-242.

Lyon, David. Zureik, Elia (eds.) (1996). Computers, Surveillance, and Privacy. Minneapolis: University of Minnesota Press.

Moore, Barrington (1984). Privacy: studies in social and cultural history. New York: Sharpe.

Nabholz, Lili (1993). Entstehung und Grundanliegen des Datenschutzgesetzes. In: Schweitzer, Rainer J. (ed.). Das neue Datenschutzgesetz des Bundes. Zürich: Schulthess, p. 1-7.

Pearce, Graham, Platten, Nicholas (1998). Achieving Personal Data Protection in the European Union. In: Journal of Common Market Studies, 36, p. 529-547.

Pfetsch, Barbara (1986). Volkszählung '83: Ein Beispiel für die Thematisierung eines politischen Issues in den Massenmedien. In: Klingemann, Hans-Dieter, Kaase, Max (eds.). Wahlen und politischer Prozess. Opladen: Westdeutscher Verlag. 201-231.

Priller, Eckhard (2002). Zum Stand empirischer Befunde und sozialwissenschaftlicher Theorie zur Zivilgesellschaft und zur Notwendigkeit ihrer Weiterentwicklung. In: Enquete-Kommission Zukunft des Bürgerschaftlichen Engagements, Deutscher Bundestag (Hrsg.). Bürgerschaftliches Engagement und Zivilgesellschaft. Opladen. Leske + Budrich, 2002. S. 39 - 54.

Priller, Eckhard, Zimmer, Annette (Hrsg.) (2001). Der dritte Sektor international: Mehr Markt – weniger Staat? Berlin: Ed. Sigma.

Randeria, Shalini (2003). Between Cunning States and Unaccountable International Institutions: Social Movements and Rights of Local Communities to Common Property Resources. Discussion Paper Nr. SP IV 2003-502. Berlin: WZB.

Rössler, Beate (2001). Der Wert des Privaten. Frankfurt/Main: Suhrkamp.

Rotenberg, Marc (1998). Preserving Privacy in the Information Society. Paper at the UNESCO conference InfoEthics '98. http://www.unesco.org/webworld/infoethics_2/eng/summaries.htm#13.

Rotenberg, Marc (1999). The Privacy Law Sourcebook 1999. United States Law, International Law, and Recent Developments. Washington DC: Electronic Privacy Information Center.

Sauter, Regine Martina (1995). Die institutionalisierte Kontrolle im Bundesgesetz über den Datenschutz vom 19. Juni 1992. Eine rechtsvergleichende Analyse. Zürich: Schulthess (Informatik und Recht, 27).

Schweizer, Alex (2001). Data Mining - ein rechtliches Minenfeld. In: digma. Zeitschrift für Datenrecht und Informationssicherheit, 2001, p. 108-115.

Schweizer, Rainer J. (1993). Die Aufsicht über die privaten Datenbearbeitungen und die Beschwerdemöglichkeiten privater Bearbeiter und betroffener Personen gegen Aufsichtsentscheide. In: Schweitzer, Rainer J. (ed.). Das neue Datenschutzgesetz des Bundes. Zürich: Schulthess, p. 91-105.

Schweizer, Rainer J. (1999). Datenschutz in der Schweiz und in Europa - Auswirkungen des europäischen Datenschutzrechtes auf die Schweiz. In: Epiney, Astrid, Freiermuth, Marianne (Hg.), Datenschutz in der Schweiz und in Europa, Freiburg: Universitätsverlag Freiburg Schweiz. p. 25-43.

Simmel, Georg (1908). Das Geheimnis. Eine sozialpsychologische Studie. In: Georg Simmel: Soziologie. Untersuchungen über die Formen der Vergesellschaftung. Berlin: Duncker & Humblot. p. 256-304.

Stévenin, H. (1968). History of Aggravated Risks in Insurance. In: International Conference of Life Assurance Medicine in Tel Aviv 1967. Basel, S. 315-329.

Tätigkeitsbericht des Eidgenössischen Datenschutzbeauftragten, 1993-2001. Download: www.edsb.ch.

Weingart, Peter (2001). Die Stunde der Wahrheit. Zum Verhältnis der Wissenschaft zu Politik, Wirtschaft und Medien in der Wissensgesellschaft. Göttingen: Velbrück Wissenschaft.

Weintraub, Jeff (1997). The Theory and Politics of the Public/Private Distinction, in: Weintraub, Jeff, Kumar, Krishan (eds.), Public and private in thought and practice: perspectives on a grand dichotomy, Chicago: University of Chicago Press, p. 1-42.

Westin, Alan F. (1967). Privacy and Freedom. New York.

Winterthur (2000). Kontakt: Ratgeber Datenschutz. Winterthur: Winterthur-Versicherungen.

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