



Speaker	Dr Julia Powles
Talk title	What Hope for Privacy?
Venue	The Stables Bar
Time	Tuesday 29 October 2019, 7.00pm

Anthony Fortina

Alright, I think we are going to make a start, I don't want you guys to get home too late.

So, welcome to the second session of Raising the Bar Perth. We have already had one down, last year we did ten bars and ten speakers and this year we are doing ten bars and twenty-two speakers, so ... and welcome back those of you who were at the first session and first, I would like to acknowledge the Whadjuk Noongar people as the traditional owners of the lands and waters where we are meeting today and to pay my respects to the elders, past, present, and emerging.

At UWA, we are very excited to engage with the public in venues like this and we would like to make it part of our constant outreach because effectively we do a lot of activities on campus but we don't often get out to ... well we certainly don't get out to bars like this, so if you like it, please let us know.

Earlier this year UWA launched our 2030 vision for the next decade and it's quite important to us and the significant component on that vision is our focus on tackling the global challenges facing our society and our environment and these talks are all based around those broad challenges.

If you are sharing Raising the Bar on social media, up there we have got @UWAresearch, please include that in your Tweets and also the #rtbperth19.

So, tonight's talks are also being recorded and will be published as podcasts on our social media channels and if you registered, come onto our website and look for those podcasts.

Without further ado, let me introduce you to Dr Julia Powles.

Associate Professor Julia Powles is an international expert on technology law and policy. A scholar, lawyer and writer, Julia wrestles with questions of power in the digital economy, regularly finding herself in the cross-hairs of the world's biggest companies, not comfortable.

With a background in biophysics, genetics and law in Australia, she spent over a decade in leading research and public institutions in Europe and the United States, and now continues her work on technology and public interest with Perth as her base and Australia-Asia as her focus.

Please join me in welcoming Julia.

[clapping]



Dr Julia Powles

Hello, good evening.

I wanted to get a sense of how we have sold out a room on what is usually a pretty dreary subject in any law school curriculum and certainly for anyone who has to do data management, so can I just get a bit of sense, and Anthony is going to help me, of what people want to know about privacy, or why decided to get out on a Tuesday night and come to a pub and listen to a talk about privacy?

Audience

The Californian Protection Act that is going to come into force in 2020 is \$185 billion if your Facebook [inaudible 10:27] that's important.

Audience

Last week China announced that they are going to issue the world's first Central Bank Digital Currency, using blockchain technology and that's going to probably become one of the most important, "big brother" enablers on the planet and I am very interested in what Australia might do, because blockchain can also be a very good demographic democracy tech and give freedom and privacy to individuals as well, so I am interested in that topic.

Audience

[laughing] giving away your mic is a bit much!

I have studied genetics, so I am interested in how data information is going to go in towards the future with our DNA and stuff like that and security in terms of that.

Dr Julia Powles

Okay, so we have got genetics privacy, we have got China blockchain global digital currency and we have got "can you levy a fine" that's going to unsettle Facebook.

One at the back!

Audience

How far along Australia is in adopting GDPR or an equivalent here?

Dr Julia Powles

Alright, do people know what GDPR is?

It's really funny, so Rod Sims who today announced, he is the Chairman of the ACCC and he announced this big investigation of Google and he made the mistake on a Perth stage a couple of weeks ago of saying "GDPR" and then didn't know what the acronym meant and stumbled through something that started with "Great Data ..." "so never do that anyway."



It is the General Data Protection Regulation for a European Privacy Instrument that has shaken the boot of big tech companies. It actually builds on 25 years of privacy law but now they are paying attention because it has fines, so that's the kakuk to the first question. The perversity though of the situation is because he fines are so hefty, the regulators are now scared of using their powers because they are going to get challenged by companies that are now bigger than states and one of the great ... the thing that occupies me in my research is, "how do we deal with these entities that we have never seen before, with something like this, this sort of power that they have, Google, Facebook, Alibaba, Bydude?"

These are the biggest companies in the world, the most valuable and their core asset is information about us. And, it is information about us that we defend through this media interest, called privacy.

And so, this is a constantly fascinating subject and I wanted to just roll through evening with some of the peculiarities of privacy, some of the challenges and some of the ways that it is under-delivering because it's the only thing we have to reach for when we think about power in the digital realm and also in the genetic realm and also in our physical realm and it's a really fundamental thing.

I have this great little quote, it's the only thing I prepared so [pew] that:

"Privacy is a complex and even contradictory concept, a word of such broad meaning that in some cases it can become misleading or almost meaningless. It is expressed in law and policy and technology, philosophy and in everyday conversations.

It these a space that runs from a dashboard on a website, your privacy settings managed through drop-down menus and radio buttons to an overarching argument about the development of human society.

Privacy is an outmoded idea, some say. A two-century anomaly of western industrialisation. The interregnum between village life and social media.

On the other hand, some privacy makes it possible for us to develop as free-thinking, independent individuals. Others privacy is an expression of bourgeois hypocrisy and bad faith. Others, privacy is a defence of social diversity.

This doesn't merely show the ways in which the word is used. A moment's reflection makes clear, that within these uses are divergent concepts. The "House of Privacy" has many rooms. Some are concerned with the integrity of family life, some with state oppression, now or in the future, some with the utility and value of data and some with a true inner self that can only emerge in anonymity and many have intersections and communicating doors.

This conceptual diversity carries over into the strategies, practices, technologies and tactics used to produce, perform and protect privacy."

This is from a lovely little book that I highly recommend to everyone called "*Obfuscation: A User's Guide for Privacy and Protest*" and it's by two ... it's by a technologist and a philosopher who came



together and one of the lovely things about working with “privacy” is you get to work with people with such diverse backgrounds as that. Helen Nissenbaum and Finn Brunton and Finn was on Radio National yesterday, doing a great episode on the Privacy Paradox.

And so, it’s got all of these different concepts and I wanted to just start with a few myths that I think dog the idea of privacy.

One is that privacy ... and someone said this to me, “You know, we have never really had it. This idea that it’s a modern invention or that idea that it is this two-century interregnum ...” Actually, there are cases going back, there is this fantastic case from the mid-14th Century of a litigious widow in London and she managed to sue multiple of her neighbours, who had a successive, escalating series of broken windows.

So there was this woman who first litigated, and there are all these wonderful professions that used to exist, against a John, who was a skinner and he had four broken windows through which she was concerned that he could look upon her garden. And next to him, another fellow who was a skinner and he had six broken windows through which he could look on her garden and both of them she sued and she had success in that time.

So to people who say we used to live in villages and privacy didn’t matter, they had forty days to rectify the situation and repair their windows.

Then she upscaled, there was a widow next door and she had twelve broken windows [laughing] and she sued her and then finally there was someone with a watchtower and she took him down and he had to do it all in thirty days.

So, there was case law back then. One of the iconic cases which has this lovely line in it, is a mid-18th Century case, Entick & Carrington and it was a case where a newspaperman, he had his house ransacked because he was accused of publishing seditious columns in his newspaper and there was the Kings Men at the time, the secret service of the age, ransacked his house and there was a ... this really interesting case and I think it actually some bearing to Western Australia, so hold with me on this, where the Courts said that the silence of the books, in this case, the fact that we didn’t have law, showed that there is ... that there was an impropriety here and that there is no possession more dear than a man’s letters and writings and protected and remains the foundation, 260 years of the Rule of Law. The intimate writings that we convey and keep and share are something that is so precious to us, that there is no law that could encroach upon them.

The truly bizarre thing about the last twenty years is that we have abolished that. We have instituted these companies that I think are now unaccountable at a level that we have never seen before and it is because of this thing that is absolutely the most precious and intimate of our possessions which is our papers, in that time, but actually now, into your thoughts, your actions, your gait, your face and we don’t have any way of properly touching these features.

So, the first myth, I think is this idea that privacy is a modern invention. It’s got a long and celebrated history.



Another myth ... I shouldn't ... can I concede a thing, I have lived in the US for the last three years and Americans are very good at this trick where they go, "I've got three points." Then they roll off three points and whenever I do that, I go, "I've got three points," and then I stop after one. But I do have a few points, but I just going to tell you how many. So a second myth is the myth that data and information is the legal term "Non-Rivalrous". It's as renewable as the sunshine. If you collect up information, someone else can just come along and collect it up and that is true to a degree and to a degree, its total bollocks.

When Google and Facebook, for example, say, when they collect information on all of us, information that is at a level ... I worked with an artist who found 4,000 data points that you collect on individuals. There are things like, when you roll over in bed in the morning, how long do you stay prone looking at your phone and based on pattern recognition, do you have someone else in bed with you and based on pattern recognition, does that reflect whether or not you have a good sex life and whether or not you are going to stay in that relationship.

Facebook has a patent, actually a series of patents, nine patents on those sorts of features.

So we have this situation where that information is collected and yet Facebook on your search histories claim there is a renewableness to that information and the thing about it that is total bollocks is that we can't go back and recollect the information of how we lay in bed each day for ten years and how entire populations did. One in three people on the planet uses Facebook. It is an extraordinary degree of intimate knowledge of people.

The idea that, and you hear it often. I hear it in contesting with Google and Facebook and the like, data, we can create a new Google, we can create a new Facebook. I then say, "Will you licence me your data source, because there isn't a way I can think of reproducing that data."

I did actually ... I might just look at what other things are my favourite myths.

The one that is really frustrating and I don't really want to spend time on, is the ... if you have nothing to hide you have nothing to fear, sort of idea.

I want to just give you a little personal story on this. So, I actually came into privacy when I came out of Law School, I managed to have this terrific job working for a Judge, which is a great way of feeling very responsible but not actually having any of the responsibility and I had top-secret security clearance. I worked on these terrific cases, terrifying cases and actually quite awe-inspiring cases because Australia has a really amazing sliver of a security system which is around a review of adverse security assessments and passport revocations.

I was there listening to cases about some of the high profile individuals who were involved in the security state and I saw various elements of privacy in that mix. I saw the way in which Courts need to operate in secret sometimes, because of what we don't know about things like the security state and some of the small features that actually have to get ahead.



I saw the way in which secrecy got flipped in the public discourse. So, we had people like some of our most eminent barristers, Geoffrey Robertson and Julian Burnside who would see cases and I sat in on their cases and hear evidence and hear a really robust three-member judiciary interrogate their evidence and a defendant and then, because it was a closed Court, they would go outside this was a Kangaroo Court and there wasn't a way to correct the record.

I was one of those people that was really quiet minded to some of the real assets of secrecy. Some of the great utility of the privacy of those processes.

I left Australia and I moved to the UK and the Snowden revelations came and I discovered that that tiny sliver of a well-overseen security state was but a tiny element of a much broader and totally unregulated sector and then I saw this other element of it, which is while I had the useful scenarios where you had legitimate interest in a person who was suspected of, in those instances of terrorism and if they didn't have an accountable set of evidence against them, the Judges said, "unredacted evidence, bring in the Director-General of Security, I want to see all of the records."

Suddenly I got tipped out into the world of, my goodness, every one of us now who fled this situation and every one of us, all of our profiles are actually part of a much broader, global collection of information and a security apparatus in which Australia is an agent but isn't the main driver, and I think that the thing that happened sometime in the late 1990s is that we had a global shift, that the fact of that, until that point, anyone and now all of us, would navigate public space as an individual, you know, not suspected of anything until proven otherwise and I think then, there was this shift online that all of us, became somebody of interest. Somebody of interest to a set of actors that are operating outside of our Australian oversight regime, I think this is really poor, outside any system of oversight.

So, all of us, I think, if you join enough dots and from that evidence that I saw, all of us could have a case against us, I think for something, some connection, someone you know, who you once emailed that would put you in suspicion of something to hide.

I think the thing is, when we feel privacy and I dare anyone who doesn't think that they care about privacy to come up here and give me their phone password, we feel privacy very innately but one of the ways and what I want to get to that works against us is, because it's very atomised at the individual level and what this experience from going from the national ... and I could say lots of things, I am being a bit cautious so I don't get ASIS coming and telling me I can't talk about this anymore.

One of the things I noticed in the shift from working inside the security apparatus, just thinking about it from the Snowden revelations when I went on to work at the Guardian on some of the aspects of that, is that we just have ... we have tripped, I think into a situation where we are not ... no longer subject, as a legal scholar, I think this is a really fascinating ... we no longer are a subject of law for what we are and what we do, we are a subject for who we are like and who we connect to and how we act and that has a tremendous chilling effect on how people and especially people who already subject to disadvantage, exist in the world.



It was really terrifying to me to work and live in the UK, where entire populations, entire suburbs had a digital access, a digital divide problem and that problem was if they went online, one of their family members got put on a blacklist and couldn't travel and had all these other consequences for the way in which, just merely by association, in that case, with a Muslim sounding name, it would land them in a certain set of ongoing circumstances that were connected to some feature that they couldn't get rid of.

I think, I work a lot on AI and data-driven technology and all these exciting buzzy areas, blockchain and the thing that all of those technologies do, is they accelerate the way in which people who are not you, but are like you, implicate you into systems that can become systems of oppression and that has been really, my experience of watching how these systems work, and particularly in countries like the US have, which have much more pronounced racial disadvantage and other systemic disadvantages. But it makes me terrified in Western Australia, for what might happen here, where we have populations that have had systemic disadvantage and the way that systems connect and so this whole idea that if you don't have anything about you ... I don't think ... basically, I think it's a total myth that none of us has a completely unblemished record but most of us have the privilege not to be trapped into systems that accelerate that disadvantage.

One of the other myths that I really get riled by is that privacy is some sort of opponent of innovation. Have people heard that idea, that privacy gets in the way of innovation?

So, we have got that a bit here, are people aware of this WA Privacy Act that is coming? Maybe?

The reason I said that the case of Entick v Carrington and the silence of the books, is that we are one of the few modern democracies without a Privacy Act, here in Western Australia.

There is a reform right now and a consultation closing this Friday, so get excited. Contact me if you want to put in a submission.

One of the ways that it sets up the need for a Privacy Act is that somehow, privacy, even though we don't have it in this state, is getting in the way of innovating in Government and data sharing and it's a constant paradigm, absolutely peculiar that we have a situation where, something like sharing information, which is an issue for all sorts of reasons, not least do, do I know what I am sharing and is it actually of quality to shared and do I want my agency looked at. Privacy gets used as the weapon and I was hearing an example at the back about domestic violence where there is a really complex situation about whether or not to share information.

What can happen is that the information gets shared with the wrong individuals, very frequently.

What doesn't happen, you get the sharing that might be to communities that can help one another. But this is ... I don't know why it is such a recurring crutch that privacy gets in the way of innovation.

I have long felt that protecting privacy does not stop innovation, it actually saves it and the way that it does that is because you get a community come with you and as a researcher, I strikes me as really



a bizarre situation that we can often find that the concern about whether or not people would consent to use their ... our information being used could get in the way of actually innovating.

That to me is a total myth, I don't know if anyone wants to defend it, but it's one of those ones that come up, I think, because there is something at the moment in how we frame privacy and I want to actually wrestle with this with you, without probably quite the language for it.

Privacy gets located as a very individual atomised interest and you might notice when you talk about privacy, someone says, "how do I secure myself?"

It often is a really guilt-laden obligation. You know, I should have my passwords updated and they should be this long and it should be renewed every three months and all of these things that put all of the burden on individual shoulders, and I think that if we re-imagined privacy in a way that was more innovative, you would actually realise that privacy is more like an environmental issue and if we don't have the privacy settings right for some of us, if we get the settings wrong, particularly can have this dramatic impact on more vulnerable communities, so there is an obligation on all of us and what that beautiful book says on, "Obfuscation" champions, that we should all add a bit of noise into our digital footprint and the nice thing that Finn and Helen talk about is actually being quite playful with your online records.

I always use different birthdates for example and different titles. It's really great to get on and be Baroness Julia Powles and other things like that.

I highly commend innovative approaches to how you describe yourself and I wanted to connect that to the Cambridge Analytica story because ... so I said I went to the Guardian. I went there because Alan Rusbridger the Editor in Chief of the Guardian, said, "Come in, write your own job description, we will work on great stories together." And then I got the first ... one of the first stories on Cambridge Analytica and at the time I was really a rookie journalist. I am not a journalist really but anyway I was sitting in a journalism place and I got told well ... the thing is when you are going to write a story, this old hack journalist told me, "We have just done a couple of stories to do with surveillance and they were so depressing," and he said, "you need identifiable characters, you need controversy and you need hope."

And the surveillance stories sucked, because there was no hope and then the Facebook Cambridge Analytica story came along and there were really identifiable characters, you know, fantastic, Donald Trump and all of the [inaudible 32.59] and all of this controversy but the problem was there was no hope, because its Facebook and the problems was Facebook, so we did the first stories and they just didn't go anywhere in 2015 on crews and so on and then they built up over the next couple of years and my great friend *Carole* Cadwalladr did some terrific stories and exploded it. But I think, the journal of Cambridge Analytica, to me, shows this diversity of the situation that put privacy on individual shoulders because the journals of the Cambridge Analytica story is for the individual who was interested in doing a personality quiz on Facebook, their consent to do that personality quiz and release their personal information, gambled democracy for all of us.



And, this is the thing about privacy being situated at the individual level.

We have a situation where consent is conceived in this really perverse way. We don't do it in any other way.

Do you know any other circumstance where, for example, someone works out and they go, "Oh, my individual choices about how I drive on this street are going to dictate the rules for all of you." Or, "My individual choices about the air around us are going to dictate how it's going to be for all of you."

It is only in this realm of privacy that we treat it in this transactional way that an individual's choice about, in that case, deeply intimate information about someone, what someone's personal ... everything about your demographics, everything about how you wake up in the morning and look at the person next to you, all of that could be rolled into a system that then implicated every friend that you have and then could be passed onto a third party and used in a way that ended doing political micro-targeting and so on.

What was really to convey in that story and what has transpired over the last two years and someone said to me, can I end with hope, but actually, I can't.

The nub of it is, is that nobody is able to touch Facebook and yet we all nourish Facebook and if you are not Facebook user, you will have noticed there have been some ... just like the case today from the ACCC against Google, there have been multiple cases against Facebook, even if you are not a Facebook user, if you have ever been a Facebook user or if anyone you know has been, your data will be wheeled up into their orbit just by navigating the web and everything that has a Facebook "like" page.

So, your NGO, non-profit who has a Facebook icon, through that there is tracking at least back to Facebook.

So the thing about Cambridge Analytica, is we have seen two years of basically apologies, sort of, inept congress-people, fines that are less than a quarter of a day's profit for Facebook and I think, I mean I am a lawyer, I am navigating this world going, "We actually don't have any of the tools we need."

We reach for privacy, where what we are actually concerned about most of the time are three things. We are concerned about privatisation and privacy becomes a distraction from privatisation. It is consistently, over ninety-five... whenever you do a survey on privacy, when do people get riled when data goes to someone who is going to make money out of it.

We are worried about our privatisation, we are worried about platformisation, the way in which everyday life gets rolled into platforms that can then use their predictive capacities to design and dominate everything, I have just a big study on Google's Smart City Initiative and it is terrifying.



It basically reimagines the city and every movement within it, as a great network stack, where things like city government are just apps and they know everything about your behaviour, from whether your coffee machine gives you coffee in the morning and micro-transactions based on predictions about how you behave and you would probably shake your head and think that's a crazy future, but the power of these companies and the unchecked way that they currently exist, I think, actually doesn't make it so much science fiction.

That is a platformisation problem.

The domination problem is just sheer monopoly power and the way that it then amplifies, I think, the influence of these companies.

There is, I think, a clear set of issues and to wheel back to, "does privacy even get at them?" I think it gets at something that we all feel but it doesn't get at what we are concerned about in terms of a shift from an individual being the target of ... you think that's it you and what you do and how you act that might dictate what outcomes you have in the world and it doesn't really capture the fact that now it's about everyone who is like you.

It doesn't capture the things about the way that I think our cities and our governments are lying to prone to the promise of big tech companies and unable to say, when you collect information and David Glance was here earlier talking about My Health Record, an instrument that by its designer has been conceived to pass information to the great innovators like Google and Facebook to do wondrous things with our health information here.

It doesn't capture that at all and I don't think it captures anything about this sort of collective interest that we all, I think could imagine circumstances where there would be some element or something that you have done at some time that would implicate you and we all desire the ability to move on to find a way to live each day, not with a perpetual presence of past moments in time collected on data-driven systems.

There is something very frail I think in privacy but the big thing about it is that it gets weaponised against us and that's the thing that frustrates me a lot about this privacy versus innovation discourse.

It is meek and mild, but it is something we feel individually. I think it is something we need to compliment with a set of other tools that get at this grand power and this dramatic and I think, absolutely A-historic, A-symmetry between the fact that we are those who nourish now, the most powerful entities in the world and yet we can't actually touch them.

I might just take questions and stuff, I can keep talking in a bit but yes!

[clapping]

Anthony Fortina



There was so much passion there that you caught me, you completely off guard. I thought you were going to go for another five minutes. I thought I was going side down here and give you the five-minute warning, but that you so much that was very, very passionate.

Look, I have got the mic so I am going to ask the first question. I am trying to see where it is, where did it write it down, that's right?

I quote "total bollocks" I went to Law School many years ago and I don't ever remember that being a legal term.

[laughing]

I would like to open up questions to the audience, so please pick up your hands and I will bring the mic to you.]

Audience

Firstly, congratulations on what you are doing, it is so important to get out there and educate everybody about this issue which is really going to determine the future of liberty of our children, so congratulations on what you are doing.

I want to try and throw out a "bone of hope" on the technology side.

I work in the blockchains space and researching that for the past four or five years and there are a number of projects out there that are going to displace, that's their ambition anyway, to displace Facebook. So, you have the same benefits of Facebook without the middleman and this whole distributed technology really has got hope to give us back our privacy but it is really going to be a fight, between using that technology as a source of control or a source of democracy, so again I just wanted to comment and congratulate on what you are doing. Your work is very inspiring and very important, thank you.

Dr Julia Powles

Thanks.

I think what makes me so frustrated about his area and willing to say the things we have to hand now are not sufficient, is because actually there has never been technology more realisable to the public interest than digital.

It is not like some resource-based, or in a massive pharmaceutical ... I have worked in health research for some time, there isn't the same sort of need of massive overheads and concentrated power to be able to do digital disruption. And yet, we treat like there is an inevitability to the centralised monopolies that we currently have.

I think that we do ... the challenge and where I suppose a technical issue is a real attrition there is a social issue.



My feeling is that there is actually a great state of resignation and pessimism about the state of digital technology today and it translates to a sense of inevitability about the tech we will have in the future and Google and Facebook have been around for less than twenty years, and in their own designers imaginings, they said they were bad for consumers, but it's hard to convince our political class that they can do anything about it and credit to Australia that actually, I think there is a sense we are a net technology importer and we better start drawing some rules and start challenging.

And the case today is, did you know when you click off your location history, you have to do three other things before you get your location history clicked off. That's inappropriate! But no one in the world has been game to challenge that, so I think we need to have those challenges and then the big challenge, there are a lot of projects decentralised competitors, is achieving scale.

And so when you next get a friend invite from someone, it's probably the last time you did that was ten to fifteen years ago, when we first joined all the Facebook, Myspace and so on, but the next time you get one, which is from a decentralised distributor platform, have a look at it and see if it actually a-lines with your values better than what you are currently using.

Audience

You were talking about rules, let's imagine for a minute that there is going to be some sort of change and that there is some sort of hope. Who do you think is going to be driving this? Is it we are watching Europe, is it from within, is it from our regulators? Do you think there is something that is going to drive this change?

Dr Julia Powles

That's a great question.

I lived in Europe for eight years and the GDPR is really interesting ... it's been very interesting coming back to Australia and seeing how hopeful people are about its effect.

What's interesting ... the reason Europe is relevant here is because the major player on a global level, the ones who have global ambition to date and the Chinese we have got now, increasing global ambition but there have been US technology companies and Europe is the only block with sufficient power and a sufficiently and have learned through dark history and experience, a sufficiently sensitive attitude to surveillance. You don't ... when I have taught in Switzerland Germany, you don't even have to ... you have a totally different dialogue because people don't take pictures of each other and upload them without first considering the consequences they have inherited from their parents and the grandparents are totally different awareness of the potential implications of data collection.

I think Europe has the right history, it has the right apparatus.

But, my bigger one, which makes me always think, like any massive social movement hasn't been led by lawyers and courts and judges, there's ... without a sense that there is a kind of counter-



culture to deference to a handful of platforms in which we ... otherwise, I think we would be more lost than ever before if we didn't have Google and Nova and so on. It's an extraordinary state of digital dependency.

If there is no counter culture, no social movement, it feels to me like are just going to be things that become operating costs, those big regulatory stoushes, they will become just mere costs of doing business and will continue ... because the thing is, the thing that undoes, us the stuff we like and the stuff that is convenient, it isn't good for us and when I have to talk to privacy regulators about that and we have some of the impotent regulators in the privacy state, they go, "Well, you know, I don't really want to get in the way of people doing what they like." And then others will say, "Well, I used to like smoking and I used to like smoking in bars with other people but we don't get all the things that we like." Maybe in digital technology, we have a maturing.

My hope is that we look back on it in twenty years and we go, "Man, we were so naive, we actually were on this thing called "Facebook."

It's so ... and Google, it's so bad and yet, how often do you question it in your day? Today ... and I will concede, digital activists ... I have one of my great colleagues and collaborators and heroes, Frank Pasquali here, and every time we email each other, it's on Gmail and we always go, "Oh I am so sorry for using this platform blah, blah, blah." We have this great guilt.

There is an inertia as to how we use technology and I think it requires us to maybe ... for it to be a bit messier for a while if you transition but also think about all of the ways that these platforms are supported and I guess get behind the movement.

Here, in Western Australia, we are going to be the Australian leaders on Facial Recognition and that's only because it's been rolled out and there hasn't been any significant pushback.

I think Facial Recognition is a uniquely dangerous technology that we will not be able to step back from and it is uniquely dangerous because we have CCTV everywhere and it won't be that hard to introduce "Buddy Facial Recognition" into it and you can't get rid of your face!

So, there are Perth trials which, in a really dark turn, have located themselves over the same site as the historic prohibited area of Perth, I think to spell something that ... that's my ... when are students are riled, I will say, "Well go and ..." a couple of them actually last week went and did a little theatre intervention where they went and asked people, "You know, you have got a great face, nice symmetry, how much can I buy your face for, if I take a picture of it?" and of course, everybody ran away from them and yet we will walk along and let some ... in this case, actually a totally ... it's part of the City of Perth and its Community Safety Officers who aren't even part of the Police apparatus, look at those images.

There is something you can get up and do something about. I guess I also think that it's important that we don't think to go back to the guilt, kind of, aspect of privacy. I don't think it is something that we all need to become radical activists about but when you see it get behind it.



There was one in the back, sorry, I cut off.

Audience

Thank you.

Following on from the facial recognition technology, is the age of anonymity over, given all the biometric data and facial recognition, CCTV and if you don't engage in digital platform technology, most of your information is online and available to both government and the serious activists. Are we hoping for too much for privacy, is it all over?

Dr Julia Powles

I guess one back to you, is anonymity at what level? I think where ... I have been thinking through all of the loopholes and how we currently design privacy.

One of them is about the attachment to your name and the identifiers that we have taken as really significant but actually, are some of the most common things about you.

Whats a name when you have ... maybe you will remove my name from a database but you have where I live, who I associate with, where I go, you know it feels quite feeble as a protection, so anonymity, I think, it depends on what identifiers and ... do we ... it's really ... ten years ago you had folks from Google saying, "Oh we should just ... " Eric Schmidt said, "You should just get a new name every ten years!" [laughing]

My worry is that actually already the tech industry has moved a bit beyond what we think of as our identity and it's the constellation of things that know you better than you know yourself.

What's terrifying is living in a world that is just based on the patterns of someone who knows you better than you know yourself because I think we all know how we would act in that circumstance and it's probably not for our own self-interest.

Audience

Julia, thank you for an insightful and fascinating talk.

I have a question for you regarding the Privacy Act, more than anything else, particularly in Western Australia but then more globally.

Five years from now and then ten years from now, what would success look like for you?

Dr Julia Powles

I think we could learn from experience.

Privacy has an amazing history and the debates, if you ever care to look at some of the history, in the six years in Europe about their origin of what's now the GDPR, were so prescient. At the time



databases and government filing systems the size of this room and they were worried about the sorts of things that now we see manifest.

So, we could learn from the fact that the rules developed then probably aren't the ones that we should introduce and that's currently the model. The current submission has basically two parts.

One is, "Let's take the rules that were invented in the 70s, out of the at discussion, and let's marry with a sort of, contextual approach to when, or when we shouldn't share."

And I think a much more robust approach on what success would look like is to actually have the guts to draw some red lines to say, "We shouldn't allow an individual's consent to allow a situation like Facial Recognition on all of us, we shouldn't have intimate surveillance, there are certain predictions that we shouldn't allow that are going to be very damaging for individuals and when decisions are made based on data, it should be explainable to you."

They are pretty straight forward things and the fact that no jurisdiction on the planet, and I was most recently living in New York and was stirring up New York City. If New York City can't do something, it makes you think, "Can Perth?"

But I think it just takes the first place, to say, "When we use data on individuals, we need to understand, is that data accurate?" Even sometimes when it is accurate, should we know it, is too much information and then can we explain how we are using it in way that's defensible in a classic sense that you are innocent until you are proven guilty and that features that are predicted about you, shouldn't determine your outcomes in the way that your actual behaviour does.

To my mind, there are two big opportunities in the Privacy Act.

One is we can actually learn from the most modern Privacy Law, the European Law, that first question.

Can we learn from the European Act?

We sit in a region where Japan, Korea, India are all looking at the European Act, New Zealand is, we should look at that instead of just looking to the East Coast and inheriting really frail laws from twenty-five years ago and the second one, is we actually innovate ... you know how I was talking about, that privacy loses something when it is just about the individual and that we should think about the collectives and I think we could really pioneer that in relation to a global movement around indigenous data governance where there is a recognition that there is a collective interest and I think, "Why not here where you have got a population that has been systematically experimented upon and we should be ensuring that we get the right settings for first, why not make that part of our law?"

There is an appetite for that, I think it needs to be felt that there is some sort of broader interest otherwise probably we will just get some version of what we would have got in the 80s.

Audience



Firstly, I have to say a brilliant presentation, thank you.

You have kind of, covered my question just then, but in terms of legislation, is it possible at an individual nation-level law does it have to be a global initiative for it to have any impact on the guys like Facebook and Google when as you say, they are bigger than states.

Dr Julia Powles

I had this argument with a bunch of people in the New York City Council and I was thinking about and had brief chat to Rod Sims a couple of weeks ago.

It may be that you are tiny state or a tiny city or a tiny country but there is only one Perth and only one Western Australian and only one Australia, so if that jurisdiction by Government Fiat says, "This is not okay," the company can't act.

Google does not operate in China because China requested certain things, probably not things that we would request but still requested them and Google stopped operating.

Then you get into the issue of, "Well do people care enough and will there be more of a resistance to the fact that you are taking away the things that people like," and so I think where some of the movements that are getting a response from companies, like all the big tech companies are starting to make moves on Facial Recognition because there is sufficient push back that is grounded and is actually coming from California and all their kids are leading it.

I think there is a way where we could have co-ordinated movements that respond and the Australian case, actually has picked up something that the ACCC case from today, has picked up something that a number of European jurisdictions have identified and so I think there is some kind of collective movement that can happen. But it's a sort of "death by a thousand cuts approach" and that also goes to this, "What are your tactics..." that first quote, "What are your tactics around privacy?"

I think some of the things that we can all do is add noise to the signal and there's ... what's scare to the person who asked anonymity is even, are our tactics detectable. Does a machine ... can it outwit even tactics of distance. Well it can't outwit if you leave your phone at home and just walk around your neighbourhood, no one's tracking you at the moment and when you feel ... it's amazing if you do that and you feel the experience of going through cameras and so on, it feels quite different to when you are carrying a surveillance device on you.

I guess that there is a snowball effect that I think can happen, but one of the big ones, which seems to be the most significant is, we at the moment have a lot of the services that we are given, that are coming off a curve, in which they have given us more at an individual level, probably we perceive, than they have taken.

The best example I think is around Uber. Uber at the moment is running ... is dramatically subsidising rides. The invisible cost of that is, that our governments are no longer investing in new public services ... public transit lines and they have lost sight of where they might need them and



there is no one now doing what taxi drivers have to do, which is to do a certain number pickups of elderly, a certain number of pickups of disabled people, a certain number of other social service needs.

We don't feel that when you just order Uber Eats, or you an order an Uber, and it's cheaper because at the moment that's being subsidised and I think the costs will come in a really dramatic way and we are seeing the costs of ten years of, sort of, free on Facebook now and so I guess the big action you can do is think, is this convenient, nice service offering me something or is there another way to it?

There is actually a really great application for example in WA, which to the point that this technology isn't magic, called Fareride which is a car collective trying to compete with Uber, so I think you can look out for the things, where is the co-operative alternative to something like Rideshare and I guess one ... a few people have said to me, can you say something hopeful!

One thing that to me, feels like a distinct vector where we can shift, is that so much of our experience of the asymmetries of power around technology have been screen-mediated, so you might not feel like it's too intrusive that you get pop-up ads that you never click on that seem targeted to you, but, when you no longer see whole parts of your city because you are getting through apps, to only see parts of the city, or when your blooming coffee machine or toaster is spying on you, I think we feel it really differently.

So that shift from the purely screen mediated to the physical is a really important one and its why it's important to push about things like, Facial Recognition cameras, that are capturing more than what we might not be able to control in a screen-based world but what we absolutely should be able to control in the entire realm in which our bodies are carried, and which are increasingly inside our bodies in all these technologies now, I think have a much more physical element.

That to me has felt like a real opportunity and more opportunities for resistance, because I think more of that in a human, you know, "this doesn't feel right", "I'm not okay with it", you know, the whole Google glass and the way that people had punch ups in bars because they weren't cool with people keeping recording devices on them as they drank a pint.

As those things feel like they are shifts, I think there are opportunities for pushback and they are also opportunities for regulation because also these things are more likely to create a dependency that we can never escape from, like the Uber situation but also as we have critical infrastructure, dependant on things that are no reliable than your photocopier, and have dramatic consequences for democracy and all these things that we usually hold dear.

Anthony Fortina

I think that ... sorry, we are coming to the close but one of the points that I wanted to talk about was just the "canary in the coal mine concept" with Facial Recognition.



I was in the car driving to this very venue tonight and I was listening to Radio National and they were talking about a “Pre-Crimes Unit” in, I can’t remember what the jurisdiction was, but they were actually talking about what we used to ... we watched the movie “Minority Report”. If that’s now happening, I think people have always been uneasy with the use of their data and with privacy and I think with something like that now, it has tipped it over the edge and most people are starting to really, really worry about what's happening.

We have come to the end of the evening, I am afraid.

I have been given the “wind up” notice, so I would like you to please join me in thanking Professor Julia Powles.

[clapping]

Thank you.

You are perfectly welcome to keep drinking your pint because we are finished and we don’t have to kick you out for the next session and you are also perfectly welcome to go home. [laughing]

If you would like to talk to Julia, she will be around for a little while longer and once again, thank you so much for making this event a success.

Apparently, we have been recording these sessions and the podcasts will be released and you can access our website, the universities website.

Dr Julia Powles

Thanks.

Anthony Fortina

There will be emails coming to you if you have subscribed.

Thank you.