

ECO506A - ASSIGNMENT

Surveillance

Security or Threat to Privacy



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INTRODUCTION

Surveillance, it's not something new to the modern technological civilization. It has existed among human civilizations from always, but the scale in which it is undertaken in present world is tremendously large. It's not restricted to a specific person or a group, as was earlier, but now everyone is under surveillance. The "Big Brother" is watching us every moment, all the time. Here, in this document, we will mostly talk of surveillance in context of USA. First of all, it is important to define the term "Surveillance".

Wikipedia defines it as –

“Monitoring of the behaviour, activities, or other changing information, usually of people for the purpose of influencing, managing, directing or protecting them.”

With the growth and development of modern technology, you, me and everyone else is being watched, all the time. We all are being spied by the big government agencies. All of our actions are being noticed, all the online activities, transactions, bookings, contacts, interests etc. are being analysed by big and sophisticated software in the form of large chunks of data. But this is not enough, government agencies have not restricted their surveillance activities to this only. These “big brothers” also track all of our movements, and the person with whom you are moving, the person with whom you are talking, and then creates a virtual identity for you. At this point of time, you may say, it doesn't bothers you, same did I thought earlier, but not now. As long as we have something that we want to keep to ourselves only, or that we want to share with some specific others, these mass surveillance should bother us. And as David Brinn mentioned in his book, *The Transparent Society*, secrets are the most common thing that every individual as a human beings have. Also, you may think, you doesn't have anything to hide, but does this empowers someone to track every bit of information about you and me.

Also, we are not aware of the way they are using these data. In the present world, every individual has his/her data on network, which is analogous to our virtual homes, and doesn't it bothers you that someone is entering your home, without your permission. Another point to take note is that these data are not restricted to government agencies, but they get this data through different channels (Big Telecommunications and Network Companies like AT&T, AOL etc.) which uses these so-called data to analyse our interests, our personalities, acquaintances and all the information that they can possibly extract from it. And then, they sell our data to other clients.

As a human being, we all have got some fundamental rights, which must not be taken away from an individual. One of the most important of these rights, mentioned in Universal Declaration of Human Rights is under Article 12, that states –

“No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attack upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”

This right basically protects the privacy of an individual and provides him protection of the law against such interference. The importance of this right has also been mentioned in the Bill of Rights, the Fourth Amendment (1791). But when all our data present on cloud is under surveillance, when all our communications are being recorded without our permission, then doesn't it impinge our right to privacy?

There are different problems with Mass Surveillance that includes –

1. **Discriminatory Profiling** - Mass surveillance leads to broad scale “Discriminatory Profiling” i.e. some government agencies (FBI, NYPD etc.) are involved in keeping people from minority communities, mostly Muslims, under surveillance without any suspicion. These people are also subjected to arbitrary detentions and additional screening at airports and border crossings. This hurts the sentiments of entire minority community and also disrespects the constitution as discriminating people on the basis of their race, skin color, religion, or ethnicity is unconstitutional and unfair. It reduces the trust of minority communities in the government
2. **Non-Democratic Nature** - In a democratic society, there is no place for secret laws. We all have the right to know, what kind of information is collected by government about us, and on what scale such information are being collected. It is also important to know that how these government agencies are collecting data, for how long they retain our data and how do they use it afterwards. The main essence of democracy demands for a transparent and an accountable form of government to the people.
3. **Inappropriate Use of Data** - The data tracked by surveillance agencies about people are available to their staff who may use it inappropriately for their personal benefits. As it has been found that some NSA agents used the surveillance data to track their lovers, their past, present etc. and this practice was called “LOVEINT”. This was just an example in which the personal information of people were misused but it can be exploited in many other ways. Even if government agencies or their staffs don't misuse it but if someone else is able to break the security of the server, then such data can be used for many wrong purposes. For example the intrusion of NSA server by Edward Snowden shows that the NSA server is also vulnerable.

Even after considering negative impacts of mass surveillance, we cannot deny that it is necessary for national security and hence we need to do a trade-off between privacy and security. We need to know that to what extent one needs to lose privacy, to obtain security.

BACKGROUND INFORMATION

Surveillance has been there in Human Society from always. Earlier it was particularly focused on spying of individuals or groups but now with the growth in technology, the concept of Mass Surveillance has evolved where everyone is under complete surveillance. Cameras on streets watch you every time, GPS in mobile phones and Metro Cards helps in tracking your location, Credit Card details provides transaction information, other monitoring software help record your webcam, microphone and your data in your computer or over network which are being copied to big data storage facilities like NSA's data centre at Utah, and after all this an algorithm runs and based on above observations analyses your activities and classifies the individual as a potential security threat or not. But even when these complex technology and humongous algorithm was not available, surveillance was done on the potential targets or threat groups. Mass Surveillance gained importance mostly in 20th Century.

In 1934, The Federal Communications Act was the first law that formally addressed wiretapping and it also established the Federal Communications Commission (FCC). Under this act, wiretapping was not illegal, but there was a restriction that the information gathered was not allowed to be disclosed. This was first step towards the mass surveillance and from then onwards it kept on increasing till today. Then the establishment of the Armed Forces Security Agency (AFSA) in 1945 marked another important development in the surveillance activities which gathered all telegraphic data moving in or out of USA. This later got merged into NSA, when NSA was formed in 1952.

Another tremendous rise in surveillance activities could be observed after the September 11, 2001 terrorist attack in US. This led to pass the Patriot Act by Congress, which made significant changes to FISA and ECPA, including easing wiretapping restrictions. One of the most debated article in the Patriot Act was Section 215 which stated that government can ask for any tangible things like call, emails or wiretapping records as part of a foreign intelligence or international terrorism investigation. This doesn't considers domestic surveillance but it is also notable that when you mail someone or video call someone, it passes through server and server moves the data through different data centres of the server, which makes the domestic data as coming from foreign source. So, it basically puts anything and everything under surveillance. Earlier, surveillance was restricted to gathering information from wiretapping, and phone records but after 9/11, it covered the whole network. These agencies started to bug the telephones of the Americans which helped them to get all call details. Technology expanded to record all the data from the video calls, or chats of the people, even files on the target system can be accessed by these agencies and they make a copy of these files and store it.

The government agencies undertaking surveillance activities never accepted that they are involved in running such programs. Keith Alexander, Director of National Security Agency, USA has denied in Congress that NSA is involved in mass surveillance of any kind, on American citizens, but at the same time we also had people like William Binney, Ex-NSA Analyst, who worked for US government for more than 30 yrs. but he resigned in 2001, when authorities began to bug American Citizens. According to him, these agencies are collecting and storing all the data that citizens have. There is virtually nothing in network that they don't have. He said – “I can’t find out what they are doing with my data, but I know they have it”.

Another such whistle-blower is Edward Snowden who in 2013 leaked some data from NSA servers and shared it with some journalists and activists. It revealed a lot about the surveillance activities on every individual and also the involvement of NSA in various programs like ECHELON etc. There were many other revelations made by data leaked from NSA server.

To consider this topic properly, it will be better to analyse different aspects of this topic, the groups involved, benefits they get and powers they face under different heads separately.

Where have I seen this problem before?

This problem of surveillance has been there in human society from always. Earlier, rulers needed to collect data on their enemy kingdoms for planning both offense and defence strategies in case of war. Kings also needed to collect information on their countrymen so as to know whether they are satisfied with their ruler or not. Whether there is any possibility of people going against their ruler or not. But, at that time, Surveillance was not conducted at such a large scale as is conducted today. People were under surveillance but all of their information were not stored and their privacy was not completely destroyed as today.

One of the biggest misuse of the power of surveillance was seen in the case of Watergate Scandal. This scandal is referred to as the opening scene of the worst political scandal of the twentieth century and it also marked the beginning of the end of the Nixon presidency. In this scandal, a burglary was planned at the Democratic National Committee's headquarters which is situated at the Watergate Complex in Washington, D.C., but the motive of the burglary was to take pictures of the campaign documents and install listening devices in telephones of political opponents and people of whom Nixon or his officials were suspicious.. It was later found that two phones inside the offices of the DNC headquarters were wiretapped. One was the phone of Robert Spencer Oliver, who was working as the executive director of the Association of State Democratic Chairmen, and the other was the phone of DNC secretary Larry O'Brien. This was one of the biggest misuse of the surveillance technology available, though it was not formally conducted by government agencies but some CIA officials were involved in this scandal.

Another problem of mass surveillance observed is discriminatory profiling which is widely used by FBI and NYPD. They spied on Muslim communities without any impression of wrong-doing by them. They mapped various Muslim communities while excluded non-Muslims from such spying. Even people visiting mosque were under camera surveillance. Individuals who changed their names were specifically targeted. ACLU's Report also suggested that the intelligence division of NYPD has generated daily reports on innocent Muslim's lives. Such discriminatory surveillance has produced discontent Muslim community with government and police.

Another famous surveillance program ran by FIVE EYES was ECHELON. In late 1960s this program was created with a motive to monitor the military and political interactions of the Soviet Union and its allies during the Cold War. But by the end of the 20th century, this program had developed from its military origins, and became a global system for surveillance of private and commercial communications. Later, in 2015, after Snowden's revelations, it was confirmed that NSA was involved in this program. There are many such instances of misuse of the power and technology of surveillance.

Who are the BENEFICIARIES?

To know that who all are benefitted from the mass surveillance, it is important to focus on all the affected groups and analyse the impact of surveillance on them. One of the biggest victim of mass surveillance is the privacy and freedom of the citizens of the country. But it cannot be denied that surveillance doesn't only harms the people but it also helps maintain the national security and protect people from many threats. For example the smart cams in streets help track any movement which is not found to be normal and mark such people as threats which allows the police to prevent any crime before it occurs. These surveillance also prevents people from undertaking any criminal activities as they are aware of the cameras and other tracking devices present and their risk of getting caught. This makes people feel safer on streets, as they know that someone is watching them.

But apart from this camera surveillance, activities like reading and recording mails and calls of people, has not helped very much to avoid any bigger security threat in last decade. On the other hand, the negative side of surveillance is very huge which I did discussed earlier. So, for citizens, if they are putting their privacy at risk for national security, at least they should be provided information by the surveillance agencies, about these activities and the ways in which our data is used.

Government agencies are involved in mass surveillance in order to avoid any kind of security threat to the nation. Though it has not been successful to the extent, it was expected to be but it is required for the national security. It has helped government recognize potential threats and prevent them. Another indirect benefit to the government is the reduced need for police as every street is being watched by the smart cameras and these cameras reduced the long-run cost of surveillance and improved the functioning of the police. It has been observed in many studies that the crime rate has reduced in big cities with increase in surveillance.

These two are not the only groups affected by mass surveillance. Another group of people who benefit from these surveillance are the companies which provide the surveillance agencies with tools to make their work easier and faster. Not all the countries have resources like USA to develop their own surveillance tools as NSA or FBI did, and this is the place where these companies are required which sells their software or other network intrusion tools to the government agencies. It is estimated that the market for these tools are bigger than 5 billion dollar. There are big players in this field like FinFisher, The Hacking Team and others. Their work is to provide the government agencies with intrusion tools which hacks the computer of the target and allows the intruder to access the webcam, microphone and other devices of the system without making target aware.

Which **BIG GROUPS** are **INVOLVED**?

Many government agencies are involved in surveillance activities of their citizens and also foreign individuals. Agencies like NSA, FBI etc. are there in USA which are famous for such activities while other countries like United Kingdom (Government Communications Headquarters, GCHQ), Australia (Australian Signals Directorate), New Zealand (Government Communications Security Bureau), Canada (Communications Security Establishment) etc. also have their surveillance agencies. These agencies are not involved in such activities for any pecuniary reasons, but their motive is to foresee any criminal activity or terrorist activity and try to avoid them before they occur.

These government surveillance agencies are not alone but is supported by a larger international intelligence alliance comprising of Australia, Canada, New Zealand, United Kingdom and the United States named the “FIVE EYES” (often abbreviated as “FVEY”). This was formed after World War II and it conducted its surveillance program named “ECHELON” but its existence was disclosed to the public in late 1990s. Documents leaked by Edward Snowden also revealed that partner countries of FVEY were also involved in spying on one another’s citizens and then share their collected information with each other.

One another group involved in such activities, whose motive is just to achieve more and more profit is big network companies, telecommunications companies, and other software companies. These companies provide us with communication technology but are also involved with government agencies to track our data and communications. Some of these companies sell our data to other companies at cheap cost which help other companies to target their customers efficiently. In February, 2006, USA Today reported that the NSA had worked with telecomm. companies including AT&T and Sprint in its surveillance program. It also revealed that the agency had been secretly collecting large amounts of phone records from companies including Verizon. Government agencies in all countries doesn’t have resource to develop their personal surveillance technology, instead they rely on other companies which provides such government agencies with software and tools to intrude the system of their target easily. Companies like Finfisher, The Hacking Team etc. are some of the renowned companies, which provide government agencies with the intrusion tools.

Mass Surveillance is something that touches lives of anyone and everyone whose data is present on the network. But this is not the only way in which surveillance is undertaken, there are other ways too. Like, we can see cameras present on every corner of the city. There is 1 cam for every 14 person in London, which is also referred as the World’s Capital of Surveillance. These cameras are not normal cams but are Smart Cams. These smart cam track each and every movement of the individual and analyse it for anything abnormal. This helps in making cities better for the people but

at the same time, these cameras are not always correct and sometime they mark innocent persons as national security threat which then lead to series of restrictions and harassing interrogations to the person. Also, it cannot be ignored that it takes away the privacy of everyone.

What POWERS they have?

As a citizen of a democratic nation, every individual is empowered to ask their government about the impingement of their fundamental rights. The question that whether the NSA or other agencies are spying the citizens has been raised in congress, but the director of NSA, Keith Alexander, denied it completely. Though, different revelations by people like William Binney, Edward Snowden etc. have shown that the NSA was involved in surveillance. And this led to many mass revolts against the agencies and their surveillance activities. Surveillance activities has faced stronger oppositions from the human rights organisations.

Government agencies have the responsibility to provide their countrymen with protection from terrorism and other criminal activities. And the technological improvement in present world has made surveillance an important tool to check such criminal activities, and terrorist activities. But, even though the government is democratic, the surveillance activities carried out are not done in legal constitutional and democratic manner. The excessive power to the signals intelligence agencies has made them so powerful that there is no check on their activities.

Earlier we did discussed the different surveillance methods and their impact and we know that these methods are mostly based on the algorithm that works in a pre-defined manner. So, any person involved in an activity which may not be a potential threat or criminal activity but, he may get marked as threat by these software. It doesn't appears like a big problem as these can be checked later by the officials to correct such confusion. But, the problem is that, if a person is once marked as a national security threat, then he is usually never removed off from the watch-lists of the surveillance agency. This affects the freedom of people, and made people less expressive of their views as there is a fear that they can be interpreted in some wrong way by the intelligence agencies. But the power to keep or remove people on the watch-lists of such agencies also lies with those agencies. And they should remove the name of the person, once he is proved innocent.

Companies like FinFisher (also known as FinSpy), The Hacking Team etc. gets monetary benefit from these surveillance operations without any accountability to the public, about the unconstitutional use of their product by government agencies. These companies has raised surveillance to another level.

SYNTHESIS

Mass Surveillance is present in all countries in today's world. Though the extent of surveillance and method followed by various countries is different but it cannot be denied that the mass surveillance has become an integral part of our modern technological world. And with the rapid rise in technology, it will only be increasing over years. It cannot be denied that the surveillance has helped reduce the crime rates of many big cities but at the same time there are other example of misuse of the surveillance data and technology. For example the Watergate Scandal, was the biggest political scandal in the American history, LOVEINT and COINTELPRO are programs where the officials misused the data they have and acted irresponsibly and many more such instances are there.

We have seen that there are different groups who are either affected by mass surveillance or are conducting it. But it takes everyone under its control. Different countries have their intelligence agencies involved in domestic and foreign spying. NSA, FBI, GCHQ, CIA, NYPD etc. are some agencies which are involved in such activities with the motive of the protection of their people from crimes and terrorism. Improved technology helped the government to reduce their police force size and improve their functioning with the help of technological equipment like smart cameras, GPS, intrusion software etc. But at the same time, their non-accountability and non-transparency makes them too powerful for a democracy to sustain with such organizations. The data retention by these agencies without the permission of the individual and their use is against the privacy of an individual.

These agencies has been widely criticized by the Human Rights Organizations including American Civil Liberties Union, The Liberty Foundation etc. as it takes away one of the most important fundamental rights of its countrymen, that is Right to Privacy. These agencies has also been criticized because of their non-accountability, data-retention, discriminatory profiling etc. They have protested against these agencies many time and had also filed cases against these agencies on the grounds on human rights violations.

There are big companies also involved in these activities, though not directly. Even search engines like Google, Yahoo etc. has been criticized of storing our search data and sharing it with other companies. It was also alleged that NSA secretly accessed the data from Google and Yahoo servers. Though not directly, but telecommunication companies, network companies, (intrusion) software companies are also involved in the surveillance by providing the government agencies with the tools and resources for spying. These companies are earning benefits without any accountability to the people about their work.

CONCLUSION

Mass Surveillance has become a need for the rapidly growing world today, to prevent crimes in street and make cities a safer place for civilians. It is also used to track other terrorist activities and prevent them before their occurrence. But, it has its own problems. Since, all of us and people with wrong intentions are using same technology, the government agencies have no other option but to spy on everyone. This impinges the right to privacy of the individuals and this is neither constitutional nor democratic in nature. This war on terror has made the privacy of citizens as its victims. It's a kind of trade-off between national security and personal privacy. It is quite evident from the numerous debates on the topic that this is hard for government to maintain a balance between public safety and privacy.

As was stated by Michael Shelden, author of the book Orwell: The Authorized Biography –

“War and defeating an enemy could be used as a reason for increasing political surveillance. You were fighting a never ending war that gave you a never ending excuse for looking into people’s lives.”

With the course of time, we have seen surveillance evolving from one form to the better one using the best of the technology available. And we also know that it will keep on growing with the fast pace improvement in ideas and technology. Soon, wearable devices may be the next step in surveillance technology and the use of drones may also be employed to monitor target continuously from sky. Surveillance will always be there but what bothers an individual is loss of his privacy and rights for getting safety. Many authors, journalists and activists accept that mass surveillance is important as a mean to avoid security threats but non-accountability and non-transparency of the government agencies involved in spying has been the main reason behind the criticism. As this is neither constitutional nor democratic. A senior analyst at ACLU, Mr. Stanley said –

“In the hands of an individual, the video camera can be a very empowering thing, But, when it’s employed by the government to watch over the citizens, it has the opposite effect.”

Technology will keep on improving with time, but its responsibility of government and intelligence agencies to use it judiciously and restrict surveillance activities to such extent that privacy of an individual is not completely taken off. And it is also important to make these agencies accountable and add transparency to their activities of surveillance. This is important for the survival of a safe surveillance society, this is important for the survival of democracy.

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