Data Empowerment

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The 1980 OECD privacy guidelines are the foundational text for international privacy norms. One of the key tenets is “data minimization.” These OECD guidelines are the basis for European and other claims for the centrality of human rights/fundamental rights concerning privacy. The European data protection authorities and others have often emphasized the way that fundamental rights to privacy and dignity protect the individual against intrusive data use. By contrast, many in the United States have emphasized utilitarian and economic arguments in favor of data use, such as economic growth and innovation based on data use.

The rise of social networking and other developments, such as the rise of cloud computing and personalized data services for smartphones, changes the terms of international debate about data use. My research project contrasts “data empowerment” with the data minimization principle. Social networks have become a major venue for individual empowerment -- the exercise of fundamental rights in freedom of association, freedom of (online) assembly, and freedom of speech. Examples include the New Media efforts of the Obama campaign and the rise of the Tea Party, along with the movement in Columbia against the narco-trafficantes and with many other political and charitable campaigns. Essentially, individuals intensively use personal information and are empowered by this generation of technology to take effective political action.

The importance of empowerment flows from changes in technology. Individuals today have what I have described in previous work as “the personal mainframe” -- ordinary individuals today have storage, processing power, and bandwidth that compares favorably with the power of mainframe computers 30 years ago, when the OECD Guidelines were created. Previously, “they” (the government or corporate owner of a mainframe) did things to “us” with data. By contrast, today “we” each can use our personal mainframes to meet our individual goals -- political, cultural, and personal -- enabling effective exercise of political rights and other aspects of personal self-expression and economic activity.

The frame of “data empowerment” changes the nature of international debates about data use. These debates now should be seen significantly as a rights vs. rights argument. Debates no longer have rights arguments on one side and merely utilitarian and economic arguments on the other. Many sorts of data use advance individual rights. The OECD principle of “data minimization” requires thoughtful consideration and possible change in light of these developments, in order to achieve a more nuanced understanding about how multiple rights, in both data privacy and data use, should fit together.