

Cambridge University Press

978-1-107-08121-5 - A World Without Privacy: What Law Can and Should Do?

Edited by Austin Sarat

Frontmatter

[More information](#)

A World Without Privacy

Recent revelations about America's National Security Agency offer a stark reminder of the challenges posed by the rise of the digital age for American law. These challenges refigure the meaning of autonomy and the meaning of the word "social" in an age of new modalities of surveillance and social interaction, as well as new reproductive technologies and the biotechnology revolution. Each of these developments seems to portend a world without privacy, or at least a world in which the meaning of privacy is radically transformed, both as a legal idea and a lived reality. Each requires us to rethink the role that law can and should play in responding to today's threats to privacy.

Can the law keep up with emerging threats to privacy? Can it provide effective protection against new forms of surveillance? This book offers some answers to these questions. It considers several different understandings of privacy and provides examples of legal responses to the threats to privacy associated with new modalities of surveillance, the rise of digital technology, the excesses of the Bush and Obama administrations, and the continuing war on terror.

Austin Sarat is William Nelson Cromwell Professor of Jurisprudence Political Science at Amherst College, where he is also Associate Dean of the Faculty, and Justice Hugo

Cambridge University Press

978-1-107-08121-5 - A World Without Privacy: What Law Can and Should Do?

Edited by Austin Sarat

Frontmatter

[More information](#)

L. Black Senior Faculty Scholar at the University of Alabama School of Law. He is the author or editor of numerous books, including *Gruesome Spectacles: Botched Executions and America's Death Penalty* (with Katherine Blumstein, Aubrey Jones, Heather Richard, and Madeline Sprung-Keyser, 2014); *Re-imagining To Kill a Mockingbird: Family, Community, and the Possibility of Equal Justice under Law* (2013); *Legal Responses to Religious Practices in the United States: Accommodation and its Limits* (2012); and *Civility, Legality, and the Limits of Justice* (2014). Sarat is the editor of the journals *Law, Culture and the Humanities*, and *Studies in Law, Politics and Society*. His book *When Government Breaks the Law: Prosecuting the Bush Administration* was named one of the best books of 2010 by the *Huffington Post*.

Cambridge University Press

978-1-107-08121-5 - A World Without Privacy: What Law Can and Should Do?

Edited by Austin Sarat

Frontmatter

[More information](#)

A World Without Privacy

What Law Can and Should Do?

Edited by

AUSTIN SARAT

Amherst College



CAMBRIDGE
UNIVERSITY PRESS

Cambridge University Press

978-1-107-08121-5 - A World Without Privacy: What Law Can and Should Do?

Edited by Austin Sarat

Frontmatter

[More information](#)

CAMBRIDGE
UNIVERSITY PRESS

32 Avenue of the Americas, New York, NY 10013-2473, USA

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning, and research at the highest international levels of excellence.

www.cambridge.org

Information on this title: www.cambridge.org/9781107081215

© Austin Sarat 2015

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2015

Printed in the United Kingdom by Clays, St Ives plc

A catalog record for this publication is available from the British Library.

Library of Congress Cataloging in Publication Data

A world without privacy : what law can and should do? / edited by Austin Sarat.

pages cm

ISBN 978-1-107-08121-5 (hardback)

1. Privacy, Right of – United States. 2. Surveillance detection – United States. I. Sarat, Austin, editor.

KF1262.W67 2014

342.7308'58–dc23

2014023803

ISBN 978-1-107-08121-5 Hardback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party Internet Web sites referred to in this publication and does not guarantee that any content on such Web sites is, or will remain, accurate or appropriate.

Cambridge University Press

978-1-107-08121-5 - A World Without Privacy: What Law Can and Should Do?

Edited by Austin Sarat

Frontmatter

[More information](#)

*To Ben, with love and admiration for his wonderful
imagination and sparkling wit*

Cambridge University Press

978-1-107-08121-5 - A World Without Privacy: What Law Can and Should Do?

Edited by Austin Sarat

Frontmatter

[More information](#)

Cambridge University Press

978-1-107-08121-5 - A World Without Privacy: What Law Can and Should Do?

Edited by Austin Sarat

Frontmatter

[More information](#)

Contents

<i>Acknowledgments</i>	page ix
<i>List of contributors</i>	xi
Whither Privacy? An Introduction	1
Austin Sarat	
1 Four Privacy Myths	33
Neil M. Richards	
2 The Yes Men and <i>The Women Men Don't See</i>	83
Rebecca Tushnet	
3 Enough About Me: Why Privacy is About Power, not Consent (or Harm)	131
Lisa M. Austin	
4 What's Wrong with Privacy Protections? Provocations from a Fifth Columnist	190
Kevin D. Haggerty	

Cambridge University Press

978-1-107-08121-5 - A World Without Privacy: What Law Can and Should Do?

Edited by Austin Sarat

Frontmatter

[More information](#)

Contents

Afterword Responding to a World Without Privacy: On the Potential Merits of a Comparative Law Perspective Ronald J. Krotoszynski, Jr.	234
<i>Index</i>	271

Cambridge University Press

978-1-107-08121-5 - A World Without Privacy: What Law Can and Should Do?

Edited by Austin Sarat

Frontmatter

[More information](#)

Acknowledgments

This volume is the product of a symposium held at the University of Alabama, School of Law on January 17, 2014. I want to thank the colleagues, students, and staff who helped make it such a successful event. I am grateful for the financial support of the University of Alabama Law School Foundation and for the able research assistance of Olivia Truax.

Cambridge University Press

978-1-107-08121-5 - A World Without Privacy: What Law Can and Should Do?

Edited by Austin Sarat

Frontmatter

[More information](#)

Cambridge University Press

978-1-107-08121-5 - A World Without Privacy: What Law Can and Should Do?

Edited by Austin Sarat

Frontmatter

[More information](#)

Contributors

Lisa M. Austin is Associate Professor of Law at the University of Toronto Faculty of Law

Kevin Haggerty is Professor Criminology and Sociology at the University of Alberta

Ronald Krotoszynski is John S. Stone Chairholder of Law and Director of Faculty Research at the School of Law at the University of Alabama

Neil Richards is Professor of Law at Washington University School of Law

Rebecca L. Tushnet is Professor of Law at Georgetown School of Law

Austin Sarat is Associate Dean of the Faculty and William Nelson Cromwell Professor of Jurisprudence & Political Science at Amherst College and Justice Hugo L. Black Visiting Senior Scholar at the School of Law at the University of Alabama