Privacy and National Identity Cards

An outline for a legal and technical study

Forming part of a PhD Research Proposal

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"To the extent that the individual has no control over, and perhaps no knowledge about, the mass of identifiable data which may be accumulated concerning him or her, and to the extent that national law-makers, despite their best endeavours, enjoy only limited power effectively to protect the individual in the global web, privacy as a human right, is steadily undermined."

PhD: A Proposal

This research will form part of a PhD examining the legal and technological issues surrounding the privacy and integrity of personal data obtained and held by Australian and British governments in identity management systems.

Objective: Public Discussion

One objective of the research is to inform and engage in a public discussion of identity card systems in an Australian context.

While the current Australian government has dismissed a national identity card for the time being, they are unlikely to fall off the agenda entirely.

Problem: Security/Privacy

The desire for security can conflict with individual freedoms, such as privacy, in liberal democracies.

Adequate identification is a common prerequisite for access to Information Systems.

Governments seek to improve the security of identification; raising the spectre of Big Brother for many individuals.

Problem: Regulation/Change

Technologies are being developed and implemented faster than the laws intended to regulate them.

These technologies include various means for improving the security of identification.

Governments are keen to make use of these technologies, but this causes tensions.

Subject: Implications

This research will investigate the implications of the legal infrastructure of proposed and existing government identity management systems in Australia and the UK.

This includes, but is not limited to the policies, consultations, and legislation establishing the systems, and the technologies employed to implement them.

Subject: Audience

It is anticipated that this research will be relevant to governments and their agencies, private organisations, academics, and activists.

It should also form part of a wider community discussion of these technologies, and their regulation.

Subject: Significance

Practically every adult resident in Australia was to be registered and issued with an Card.

No access to government benefits without it.

Significant commercial incentive to use the card.

Universal and pervasive trusted identification is of enormous value; particularly when costs can be pushed back (indirectly) onto the subject.

History: Australia Card

Of historical interest to this study is the Australia Card debate of the late 1980s.

That debate colours contemporary debate in a number of important ways: most clearly manifest in concerns regarding the privacy implications of a national identity card system.

History: Implementation

While the system was not implemented, draft Bills and other documents that describe and examine the system are available.

In contrast, the UK "began introducing biometric residence permits for foreign nationals in 2008, and [] expect[s] the first ID cards to be issued to British citizens in 2009."

UK Home Office "ID cards" http://www.homeoffice.gov.uk/passports-and-immigration/id-cards/

Introduction – Problem – Subject – **History** – Concerns – Questions – Outcomes

Concerns: Big Brother

How do we balance the interests of governments and individuals?

People want privacy *and* security.

They are concerned that pervasive identification can enable pervasive observation.

They don't like being spied upon.

Concerns: Bureaucracy

Surveillance is not the only concern when balancing the interests of governments and individuals.

How government functions, why it collects information, and what it does with it, is at least as important.

Transparency and accountability can help alleviate power imbalances.

Research Questions

This research explores privacy issues at the intersection of law and technology, and addresses these two main questions:

1. What policy and legal issues arise for Australian and British governments intending to employ pervasive identity card technologies?

2. Can law adequately address the privacy implications of a government-sponsored identity card in Australia and Britain?

Research Questions

In order to answer these questions the following four questions will be pursued:

3. What is the relationship, historically, between the legal and technological infrastructures of the proposed and implemented identity management systems?

4. Do implemented technologies address the policy issues for which they are employed?

Research Questions

5. What effect does the Access Card proposal have on a National Identity Card debate?

6. What laws require reform to adequately address the issues that arise from this specific collision of law and technology?

Outcomes

1. Analysis of predictable and plausible consequences of the system;

2. Exploration of potential responses to concerns and issues identified;

3. Consideration of adaptability of law to technological change.

"Liberty cannot be preserved without a general knowledge among the people."

John Adams (August 1765)

Second President of the
United States of America (1735-1826)