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THE CONVERSATION

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Has social media really shifted the line between personal and private forever?

October 11, 2016 6.02am AEDT



Author



Bruce Baer Arnold

Assistant Professor, School of Law,
University of Canberra

The death of privacy and the erosion of the personal sphere is an internet meme, often attributed to social media. shutterstock

Social media has revolutionised how we communicate. In this series, we look at how it has changed the media, politics, health, education and the law.

In the past, so the story goes, we had privacy and dignity – but we kissed it goodbye with a few keystrokes on social media. Life is a bit more complicated than that.

The death of privacy and the erosion of the personal sphere is an internet meme. It is often attributed to social media – Facebook, Pinterest, Flickr, Gowlr, Twitter. These are digital communication tools that allow everyone to be an author and connect for free. It is authorship without the burdens of reflection or responsibility, alongside unaccountable surveillance of those authors, friends and readers.

If we step back from our Twitter feeds, we can see that reality is more complicated. Social media does not eradicate the line between public and private. Instead, along with other technologies, it shifts the

line in ways that require thought rather than unreflexive condemnation or celebration.

Don't rush to judge

Few people throughout history have enjoyed much privacy. They were subject to surveillance by family and peers.

The village gossip or neighbourhood busybody spread the news – true or otherwise – as quickly as the people at Instagram or the Daily Telegraph.

The thin red line between personal and public was often a matter of shutting the door or trusting that governments simply lacked the administrative capacity to watch most people.

Social media provides opportunities for awareness about the powerful – governments, corporations and individuals who traditionally sheltered behind hedges, guard dogs and barristers. One example is the information – accurate or otherwise – the **Panama Papers** on tax evasion provided.

Resetting the line

The world of social media is also one in which scandal, lies and defamation can sprint around the world overnight, with truth – like the law – limping in the rear. It is a world where a “public” sphere for many people is smaller, given they can choose to engage exclusively with the like-minded in a digital echo chamber.

It is a world where we need personal responsibility, digital literacy and law reform.

We do not, for example, need to gift our attention to the purveyors of disinformation or abusers of someone else's privacy. We need to be conscious that information shared through social media leaves our control, and the consequences now or in future may be serious.

We need to critique what we see rather than naively assuming it must be true because it comes from **Julian Assange** or **Donald Trump** or is about a **Kardashian**. But we also need law reform and meaningful enforcement.

It is puzzling that Attorney-General George Brandis proclaims “the privacy of citizens is of paramount importance” but resolutely ignores a succession of practical recommendations from the **Australian Law Reform Commission** and other bodies.

If you are a victim of revenge porn you should not have to pray that you live in a state that does have relevant law. You should demand remedies if your **health**, financial, **dating** or **other** data goes AWOL.

In the absence of such remedies your private sphere is not going to be adequately protected, particularly by an egregiously under-resourced and timid **Information Commissioner**.

Responsibility as citizens also means thinking hard about where we draw the line. Does the threat of terror mean we should all be suspects, all subject to undisclosed official access to our **metadata**?

If we have a life online using social media should we be restricting what the operators of each service can do with our data and when they can share, particularly if the sharing is not disclosed?

Should we have an opportunity to live down past embarrassments or even offences, through a right to obscurity?

Looking after yourself and others

We know that marketers, employers and intelligence agencies mine data about our presence online, for example, profiling our friends by their affinity with us. We know that stalkers and other criminals on occasion misuse social media to track or harass.

One response has been pseudonymity. People use spoof names and other identifiers. There are lots of 99-year-old residents of Antarctica with names such as Goldie Locks. People use multiple email addresses, assuming that some will be mined and some can be used as filters to quarantine spam.

Governments have responded by encouraging truth in social media profiles, for example, to criminalise adult predators who are pretending to be minors in grooming children.

Another response has been old-fashioned common sense. Some people don't publish images of themselves or their children. They don't "tag" people on Facebook. They publish trivial rather than sensitive information. They don't disclose information about misdemeanours that might be sighted by a current or future employer.

A third response has been despair, encapsulated in the meme that "your privacy has gone, so get over it". That defeatism is fostered by digital activists like Assange, whose response to the powerful's lack of accountability is to be accountable only to themselves.

It is also fostered by theorists who dismiss privacy as something that only matters to the guilty and woolly minded. In practice, most people seem confused rather than indifferent.

A more effective response is that we should both act responsibly and require others – businesses, individuals and governments – to act with respect. That requires law reform, for example mandatory reporting about data breaches, establishment of the privacy tort, higher standards regarding corporate negligence, and a less permissive approach by underfed watchdogs such as the Information Commissioner.

A tort will allow people whose privacy has been disregarded to gain compensation and an apology, and deter further harm. It is a commonsense response that will not prevent police investigations, cripple e-commerce and employee vetting, or chill free speech.

There is a line between public and private online. It is one we shape through our practice and our law, not something best left to Mark Zuckerberg or George Brandis.

