

# 8

## Privacy or privacies

*“Soon, your house could betray you.”*

Rem Koolhaas, Art Forum

*“Architecture is more than an array of techniques designed to shelter us from the storm. It is an instrument of measure, a sum total of knowledge that, contending with the natural environment, become capable of organizing society's time and space.”*

Paul Virilio, Lost Dimension

Within the context of this publication, the complicated and multi-faceted issue of privacy is – also given the fact that my experience is in (interior) architecture and its wide periphery, but most certainly not law – an area of somewhat treacherous content. It implies that I do not consider myself qualified to discuss in depth all relevant issues of privacy, in particular, where it concerns its legal aspects. Therefore, allow me to be supported here primarily by professionals in this discipline; for now and in this case, by proceeding on a definition or, in fact, rather a description provided by Daniel Solove:

*“Privacy is a complicated set of norms, expectations, and desires that goes far beyond the simplistic notion that if you're in public, you have no privacy. (...) We often don't want absolute secrecy. Instead, we want to control how our information is used, to whom it is revealed, and how it is spread”<sup>1</sup>.*

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<sup>1</sup>Solove, D. (2008). *Understanding Privacy*. Harvard University Press.

The one thing that becomes clear here once more is that privacy is a “container-term” to be articulated when it concerns, e.g., spatial or other notions of privacy. For these texts, my emphasis is the former, given the situation that as long as we consider or think of our traditional built home as the primary frame for spatial privacy — and do not (re)think other ontologies — it is this classic traditional connotation that prevails. At the same time, we need to be aware of the possibility that other typologies of spatial privacy can be organized within another typology of housing; i.e., one that supplies common spaces in combination with (chosen) private spaces, as can and will be a logical consequence of a support/infill structure. It implies that certain digital infrastructures can be shared and commonly protected while others function “behind” those barriers and can be protected individually. This consideration is, to a large extent, based on the most likely situation that for decades to come, we will — given the traditional building chain — have to deal with its products or results; i.e., on a larger scale, together, we will need to find ways to address the changing framework/basics of our housing space and, as a result, its basics of spatial privacy. If we can rethink our private space in favor of a separate concept within a large-scale framework, it is no longer the traditional, physical separation between public space and private space that defines our spatial privacy. We need to be aware of the obvious factor though that this shift requires the rethinking of both private space as well as privacy within such a space, i.e., our spatial privacy within our “home” is no longer linked to the current physical translation of that home.

At the same time, it is obvious that this seems to act as a barrier when we rethink more in depth and try to envision other, less physical frameworks. Luciano Floridi argues that we should distinguish four kinds of privacy, i.e., *physical* privacy, *mental* privacy, *decisional* privacy, and *informational* privacy (ital.orig.)<sup>2</sup>. I will, given the context of these texts, synchronize his physical privacy with spatial privacy, also since Floridi refers in this to the “*freedom of sensory interference or intrusion*” that “*invades personal space.*”

In the Netherlands, it is Article 12.1 of the Dutch Constitution (“de Grondwet”) stating that “Entry into a home against the will of the occupant shall be permitted only in the cases laid down by or pursuant to Act of Parliament, by those designated for the purpose by or pursuant to Act of Parliament.” “Entry” here — originating in Dutch 19th-century law — is considered physical entry by person(s), but already back in

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<sup>2</sup>Floridi, L. (2014). *the 4th Revolution*. Oxford University Press. (p.102)

2005, Koops and Prinsen<sup>3</sup> have argued that digital “entry” should be incorporated as equal/additional to physical entry, arguing that future developments in digitalization should not be excluded from protective law concerning, e.g., our increasingly connected increasingly connected homes. Now, some 15 years later, we can safely conclude that their concern and plea remains justified; at the same time, we come to the conclusion that up till now, the legal protection still seems inadequate. In the words of Bart Verschaffel: *“In the seclusion of the house one can think and say whatever man wants without someone can hear or has the right to listen, and one can stay there when one does not want to go anywhere. This means in a democratic society, where everyone has the right to therefore ‘privacy’ that these private spaces are saved from the world in which everyone can be free to go wherever he wants”*<sup>4</sup> (transl.mp).

This emphasizes not only the value of (spatial) privacy but also character, definition, and appearance of “private spaces.” By building an environment that serves as a framework for housing, we save the precondition, i.e., “spaces” from the world that are not necessarily “private spaces.” It is only when these spaces are determined to function as “private spaces” – i.e., houses – that certain legal protection, together with what is controlled by the inhabitant, is required for primarily “spatial privacy.” In this sense, what should not be forgotten is that when these “private spaces are saved from the world,” their function is housing tenure that – as stated before – in our country is to a large extent envisioned or destined to be owned, not primarily rented out. In particular, when larger structures facilitate flexible housing for the longer term, this comes with the responsibility to incorporate elementary aspects of privacy, to be further articulated and controlled by the inhabitant.

We all experience – or at least should be aware of – the current digital intrusions of our private space, be it caused by single machinery or gadgetry, by infrastructures, media and materials, or last, but not least, the Internet connection *as such*. To address only a few items here: we know the smart meter, the thinking fridge, the listening television, the spatially descriptive vacuum cleaner, the communicating console and talking smartphone or the cuddling teddy bear, the registering running shoes or the cursing robot, etc. To a certain extent, we find this useful, amusing, or even innocent; we do not, however, always recognize the structural pattern of complete monitoring and control when it comes to whatever we say or do in our private spaces. In the words of Shosanna Zuboff: *“That our walls are dense and deep is of no importance*

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<sup>3</sup>Koops, B. J., & Prinsen, M. M. (2005). Glazen woning, transparant lichaam . een toekomstblik op. *Artificial Intelligence*, (2), 624–630.

<sup>4</sup>Verschaffel, B. (2010). *Van Hermes en Hestia*. A&S /books - Ghent University.(p.124)

*now because the boundaries that define the very experience of home are to be erased. There can be no corners in which to curl up and taste the pleasures of solitary inwardness. There can be no secret hiding places because there can be no secrets.”<sup>5</sup>*

There is however a difference; most domestic items referred to above can be considered as situated in or additional to our primary notion of (spatial) privacy; after all, they all are situated in the spatial framework in which they function, and they are connected to our traditional connotation of home. If, in Zuboff’s words, there “can be no corners to curl up” or “secret hiding places,” this is primarily because of their spatial reference and not because of its technological “connection.” If “the boundaries” of home are to be erased, it is within our current experience of home, and if it is the experience of home, we may be in need of a different understanding of home, i.e., another definition. I consider the active, participating inhabitant as instrumental within his/her sphere, i.e., we will always need “corners and places to hide,” no matter their (physical) translation or appearance. We should, however, be in a position to make a well-considered and conscious choice, to be facilitated by technology as a whole, not as a refuge or hideout. I hope to have clarified in the previous chapters that I believe that the inhabitant should have control over his/her immediate environment, be it the built entity or the (sensorial) sphere it provides.

The often noticed remark about connected objects that it is up to the citizen/user to protect his (built) environment and the objects within can be qualified as too simple and single-sided. In a recent tweet on primarily smart cities, tech-critic Evgeni Morozov defined/articulated “smart” verbally creative as “*surveillance marketed as revolutionary technology.*” Back to Weiser’s initial prophecy: ambient technology is pervasive, and, selectively, we should address and influence its role and function.

Architecture has the task to frame and design the prerequisites for saving (private) places “from the world,” in such a manner that its result does not facilitate secluded spaces only. To determine privacy in this context is to determine privacy in its context of space and time, i.e., to proceed from “privacy to privacies.” What should be protected is the sphere we – so far – define as “home,” no matter its appearance and/or physical translation, no matter its temporary or final status. The suggestion, also made by Koops and Prinsen, to (re)phrase that “*the house is inviolable*” surpasses the fact that not all physical places in which we claim spatial privacy are – or forever will/should be – houses. At the same time, if we search for (legal) solutions that safeguard our privacy within the current system of building housing, we do not act within future

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<sup>5</sup>Zuboff, S. (2019). *The Age of Surveillance Capitalism*. Profile Books. (p.478)

parameters, i.e., we acknowledge process and product as well as their position within the (traditional) built environment. A house is not a home; rethinking spatial privacy should be accompanied with a rethinking of what constitutes home, i.e., private space. Should we research more progressive means of protecting (spatial) privacy, we may come to the conclusion that this excludes solutions within the current practice of architecture, i.e., building and supplying housing, in favor of more innovative, digital – personalized – ways to define, control, and protect our “privacies” (see, e.g., Spuybroek’s Son-O-House).

As far as I know, we still lack adequate research that illustrates how humans behave and (re)act in a hybrid built environment; the fact that we (can) withdraw in our private space blinds us for the fact that this space is no longer private in the traditional sense that we are familiar with. Already more than 20 years ago, back in 1997, Dorien Pessers wrote in *Archis*: “*The image of man in the communication society contrasts sharply with the humanistic image based as it is on the metaphor of the stratified inner self. (...) Legal protection of the dwelling is meant to include protection of this humanistic image. But it is precisely this personality – one the outside world cannot control – which stands in the way of efficient functioning in a communication society.*”<sup>6</sup>

Consequence is that our personality is not the only entity that has to be protected; it is the personality and/or identity within its context, in this our dwelling. In a hybrid world, identity is influenced by the shifting relation between man and environment, including present objects (see also the “Onlife Initiative,” Chapter 10). Does that imply that we need to maintain the current ontology of our homes; or can we rethink our home in such a way that its function becomes – and develops - dependent of the inhabitant? Rephrased and simplified: we now supply a built environment – i.e., housing – that provides maximum presence and experience *in itself*; to what extent can we realize a minimal (built/artificial) environment that functions as a neutral framework, with the maximized options for personal experience? After all, first, we envision or think (an eco-system and) a built environment, only after that we build. Again, Pessers: “*What will happen with man and his inner state when the symbolism of the dwelling change with the dwelling’s changed function?*”<sup>7</sup> If we desire or make a choice for a distance between our traditional concept of place and the close link to identity, we gain the fruits and freedom of (re)thinking that place, possibly in favor of a less nostalgic one.

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<sup>6</sup>Pessers, D. (1997). House of the future, symbolism of the past. *Archis*, 8, 68–73.

<sup>7</sup>Ibid.

Searching for freedom today implies that we do so starting from the still traditional dichotomy of private space vs. public space. Since we have framed our private space – i.e., our house – as a physical entity, this has the consequence that *“Housing (“Wohnen,” says Sloterdijk) is, from an immunological point of view, a defensive measure that protects an area of well-being from intruders and other discomforters”*<sup>8</sup>. This could be understood as reference to intruders as a person and to other “discomforters” as a variety of other (digital) trespassers. When the house fails to offer that protection (and additionally the law fails to adequately and/or sufficiently address and answer this problem), the ultimate solution is to discard the current ways of building/providing housing as inadequate. This leaves us two options: either we rethink the principles of building housing or we rethink the principles of principles of providing privacy. Since I believe that some primarily physical entity will be needed for some decades to come, the ultimate solution will be a synthesis of both, still emphasizing the primary function of providing the basics for (spatial) privacy. When, years ago, the “Ambient Intelligence” vision was proposed by Aarts and Marzano, a suggested solution to data protection was an “access-key,” to be utilized from, e.g., a smartphone or any other item close to our body<sup>9</sup>.

The, by now, somewhat obsolete terms “ambient intelligence,” “pervasive computing,” or “ubiquitous computing” illustrated that technology is/will be all around us (see, e.g., Weiser’s text), causing the parallel mistrust many have when it comes to technology in general and within our private space in particular since “ambient intelligence” will act in the shades; invisible but present. As Bibi van den Berg concluded earlier: *“The central argument for embedding technologies that is presented is the idea that people do not want their homes or offices to be cluttered with technological devices, but at the same time they do want an increasing amount of such systems to relieve them from their (repetitive, cumbersome or boring) tasks and duties”* (ibid., p.65). She refers to the often-noted “improvement of the quality of our lives.” It raises two questions, more or less parallel to my previous remarks where it concerned our housing: first, I am in doubt whether people really believe or maintain that ambient technology is needed to relieve them from arduous or boring tasks. Second, and far more important, who will objectively describe or even define our “quality of life”? Like any project developer who argues when it concerns housing that “this is what people want,” we have no real obvious reason other than commercial ones to argue that we know what people want or that we know anything significant about any personal/individual quality of life. Technology companies can and will continue to dream about or envision future innovative technologies that are supposed to make our

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<sup>8</sup>Sloterdijk, P. (2009). *Sferen II / Schuim*. Boom Onderwijs.

<sup>9</sup>See e.g. Berg, B. va. den. (2009). *the Situated Self; identity in a world of Ambient Intelligence*. (p.63 >)

lives easier and more comfortable, but I paraphrase again the remark posed in the introduction: to what question is this an answer? The simple fact that, e.g., Council understood and argued that the Internet of Things should be redefined as Internet of People, together with the actual discussions about the future of the Internet, illustrates the increasing concerns these days. It is human who is in need for a certain amount/form of (spatial) privacy; appropriate technologies should serve as a personalized instrument to achieve, frame, and protect this.

Where Council argues for talking “privacies” instead of “privacy,” it was Bibi van den Berg who argued for “situations” instead of “places” to emphasize “*the where of our human condition, on the places of our experiences*”<sup>10</sup>. Rephrased: identity and (spatial) privacy determined and safeguarded according to a variable occasion and situation.

DECODE is an experimental project to develop practical alternatives to how we use the internet today - four European pilots will show the wider social value that comes with individuals being given the power to take control of their personal data and given the means to share their data differently.

DECODE will explore how to build a data-centric digital economy where data that is generated and gathered by citizens, the Internet of Things (IoT), and sensor networks is available for broader communal use, with appropriate privacy protections.

<https://www.decodeproject.eu/what-decode>

## Transparency

If we look more closely at some early projects as mentioned in Chapter 4, we witness parallels with today’s topics: e.g., in Karel Teige’s “Minimum Dwelling” (1914), an important issue was its aimed transparency, and, with that, the continuing discourse concerning private space vs. public space. Christophe van Gerwey

<sup>10</sup>ibid., referring to E.Casey. (p.141)

recently described it somewhat provocatively in an extensive article: *“Living; no longer a private and individual occupation in an unhealthy, dusty and even morbid civilian interior, but a modern, liberated, shared activity for people and who not only have possessions anymore, but also quite a lot properties and qualities part. Transparency in architecture thus also means the removing of the distinction between public and private, or even between individuals”*<sup>11</sup> (transl.mp). If we remember the Onlife Initiative (OI) and its the works of Hannah Arendt, we notice the emphasis of that same difference between both public and private space. Situated in its time, Teige’s ideas – and later, e.g., – were based on the removal of this dichotomy that is by now again by many considered undesirable, in particular, given the increasing use of monitoring technologies together with the wishful statement that transparency improves the life of us all. Full transparency implies full control and the loss of privacy; “transparency in architecture” implies architecture” implies “the removing of the distinction between public and private” only as long as we assume that it concerns architecture in the traditional sense, i.e., as a built environment only. Because as long as it is architecture – as the adaptation of space to human needs – that frames and articulates this dichotomy instead of adaptive innovative frameworks that facilitate housing, it is in need of protection of primarily physical space. This was already illustrated years ago by Rob van *“The question is: what will we choose to build? A City of Control or a City of Trust?”* (referring here to David Brin’s “the Transparent Society<sup>12</sup>,” the former being a “city of our the latter a “transparent” city) *The trouble is that so few of us are talking about these very new kinds of cities. There is no grand master-plan to look up. No city planners to consult nor architects to harangue”*<sup>13</sup>.

What transparency implies we may experience almost every day: it should mean that when “to dwell” is considered to be at peace at a certain time/place, it is also a plea to “know thyself” and be transparent – by choice – at a certain time/place. What Teige’s and/or similar projects distinguish from today’s is the fact that now digital technologies offer us the possibility to actively decide and participate; i.e., “decide” about our own identity and its – spatial – “transparency.” Large infrastructures offer us the possibility as well as the much needed (technological) flexibility to facilitate dwelling instead of building houses; i.e., until now, our “settings” of privacy are (supposed to be) determined by law. However, as argued by Daniel Solove *“Privacy is not simply a way of safeguarding individuals from social control, but is itself a form of social control that*

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<sup>11</sup>Gerrewey, C. van. (2019). *Transparante Architectuur in de twintigste eeuw, van Le Corbusier tot Rem Koolhaas. De Witte Raaf, 199, 7–9.*

<sup>12</sup>Brin, D. (1999). *The Transparent Society: Will Technology Force Us To Choose Between Privacy And Freedom?* Basic Books.

<sup>13</sup>Kranenburg, R. van; S. D. (2009). *The Internet of Things.* Institute of Network Institute of Network Cultures.



*stems from the values and norms within a society*<sup>14</sup> (transl.mp). A choice for a more individually designed housing within common frameworks instead of the system of supply could bring another set of “values and norms,” a set based on more common principles instead of individual values.

An attempt to discuss the necessary atmosphere for this is the content of the next chapter: “Thinking and rethinking.”

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<sup>14</sup>Solove, D. (2010). De betekenis en waarde van privacy. In *Open, Voorbij privacy*. (pp. 34–44). NAi Publishers.

