Social identity, trust and consent in the surveillance society

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Abstract. This paper questions the usage of monitoring cameras (CCTvs) in public spaces according to their influence on social trust and consent. Our central argument consists to demonstrate the decreasing of the social normativity that the use of this technique implies. Firstly, the spreading through a population of the feeling to be quickly and automatically identified and categorized within one or an other specific group, and to have absolutely no capacities to counter that fact, risks to severely diminish the trust that those individuals have towards the regulatory institutions in place. Secondly, the setting up of CCTvs in public space hasn't yet made the object of a real, substantial and influential debate among the civil society, the industrial and business world and the governments. Those technical devices have been legitimated by only one paternalistic and technocratic argument of security measures.

Introduction

All societies that are dependent on information and communication technologies for administrative and control processes have become surveillance societies. The consequences of this are felt in everyday life, which is closely monitored as never before: airports, malls, stores, almost each public space is monitored with CCTvs (Closed-Circuit Televisions). The surveillance problematic could be defined in those terms: "any collection and processing of personal data, whether identifiable or not, for the purposes of influencing or managing those whose data have been garnered" [1]. The surveillance mechanism resides then mostly in computer power, which allows personal data to be collected, stored, processed and

circulated. But this technical power is generally relegated to individuals watching the device, or keeping the authority to decide what to do in the end. Unfortunately, and this will constitute our main argument for this contribution, even if these kind of security principles are respected, the fact that there's a technical automatization of the data collecting process is absolutely not neutral in term of identification and of social space construction. What we mean is that the technical evolution, far from being exterior, has strong impacts on everyday life, especially when it observes through the lens of a predetermined normality's status the social comportments and keeps them in memory. In other words, the development of the surveillance aspects raises important questions of legitimacy about the way our society restricts the diversity of social behaviours and determines the membership of an individual.

The global problem that we would like to exemplify through a double analysis on trust and consent concepts is that the surveillance in high mobility places implies in fact low social normativity [2]. Today airports, malls and "semi-public" places where such CCTvs systems are installed actually increase their low social normativity ambiance, which means that the individuals are loosing more and more the control of their environment on one hand, and of their appearance on the other hand. What we mean by social normativity is the capacity for a person or a group to choose not only the way to act among a predetermined frame of legal norms but also to determine from the beginning and along an ongoing process what all kind of norms should be! Then, social normativity signifies the way by which a society regulates itself with legitimated norms and acts on itself to this aim.

Consequently we would like to point out the fact that the traditional social control is then now more and more replaced by a technical one, which raises different problems such as:

a) *The paradox of security*. Those systems, which take partly in charge the social control, intend to reinforce the security. However, they imply social deresponsabilisation, contributing to reduce the effective security, giving at the same time a deceptive impression of security.

b) *The social intrusion of such technical systems*. By making the border between public life and privacy thinner, this intrusion raises the question of their violence, as of the prehension and property of the body, centre of the social identity, and its reduction to a list of vectorized movements. With such systems, the body becomes an object of surveillance, centre of a set of data, opened to be collected, processed and transferred through numerical networks. This questions the connection between the embodied person and the social identity.

c) *The legitimacy of the norms*. Those calculated and complex systems are neither based on debates, nor visibility, nor intelligibility of the implicit expectations related to them. Unlike the social norms which can be deliberated, discussed, understood, disputed and infringed, the implicit and

hidden characteristics of some technical norms impede the society to discuss and to consider their legitimacy. This kind of norms is then usually just imposed, but important questions are raised concerning the social effects of it. A non-deliberated or questionable system cannot give rise to negotiated behaviours. It generates either a passive acceptance or a violent reject.

Starting from the modern context of the CCTvs, we will question the usage of those technical devices and their effects on the social identity by a double analysis of their consequences on the systemic trust on one hand and on the aspects of consent and acceptability on the other hand. If this ICT device alters the nature of the social trust and corrupts the usual way of seeking the citizens' consent, it will have a strong impact on both individuation and identification concepts. The aim of this article consists in describing this technical impact on the identity and aims to give some ethical tracks in order to evaluate it. To this aim, we will elaborate our reflection around two main arguments:

1. *The spreading through a population of the feeling to be quickly and automatically identified and categorized within one or an other specific group* (ethnical, religious, but also in function of physical, mental or financial capabilities), *and to have absolutely no capacities to counter that fact, risks to severely diminish the trust that those individuals have towards the regulatory institutions in place.* Indeed, the institutional selection of one identification paradigm, which defines the "normal" way to be and to behave, will necessarily exacerbate some feelings of constant categorization within groups in which the individual may have absolutely nothing to do with. This argument established around the concepts of systemic trust and social identity mobilizes some elements from social psychology and social philosophy.
2. *The setting up of CCTvs in public space hasn't yet made the object of a real, substantial and influential debate among the civil society, the industrial and business world and the governments. Those technical devices have been legitimated by only one paternalistic and technocratic argument of security measures* – "we (the decision makers) know what is good for you". *We think instead that this justification is not enough to reach a minimal social acceptability level and that the fact of only informing the public without seeking the discussion constitutes a failure in the accession to people's consent* – that is nevertheless the target and the object of this technology, *and then a shortcoming to the respect of the identity.* This argument established around the concepts of consent and social identity essentially mobilizes elements of political and legal philosophy, as reflections about normativity in general.

1. Trust and social identity

The first theoretical aim of the contribution is to demonstrate the link between systemic trust and social identity. First of all, we need to delimit

the concepts of trust and identity in function of our problematic about the use of CCTvs for the surveillance of people. We will then have to describe in detail the role of systemic trust and to explain some aspects of the social identity. Afterwards, we will elaborate key-reflections in order to think the widening and the understanding of the different identities as an important input for the increasing of the social trust. In consideration of the facts that, firstly, the routine trust that we display indicates our identity, and secondly, the respect of the different identities strengthens the systemic trust, our hypothesis for this first part is that the use of surveillance cameras which predetermine the citizens' identities by analysing their behaviours has the paradoxical effect of dangerously altering systemic trust and presents the risk of lowering its general level.

The general function of trust is to reduce ambient uncertainty, which means that without a minimal feeling of trust man will be inapt to act in our complex world [3]. Trust is actually the result of a complex blending process between feelings and reason under contextual influence. It is essential at any interaction levels, because there is always a part of irreducible uncertainty, which means that we can never predict exactly what is going to happen.

The concept of systemic trust refers for the essential to the panel of natural, routine and institutional forms of trust [4]. The systemic conception of trust is generally perceived as automatic and not entirely rational, depending respectively on a natural disposition to the sociality of the human being, on the daily routine habits, and on the functional capabilities of the social system to punish or exclude the untrustworthy persons. Therefore, we're talking here about a trust form which depends on a habit or a feeling – especially for familial and social spheres, rather than on a conscious choice. An important thing to underline here is the fact that systemic trust has also another important function: in our modern technocratic societies, characterized by the rise of autonomous, powerful and expert systems – such as the economical, legal, administrative and technological domains, trust represents an important indicator of the legitimacy of the decision-making authorities [5]. Hence, a lack of systemic trust represents a shift between the expert judgments and the social opinion.

Social identity refers to the "objective" side of the identity, which means to the extern identification about group membership in terms of age, gender, profession, social class, culture, ethnicity, etc. The characteristics of this identity, in opposition to the personal one, are assigned by the others, according to a human natural tendency to categorize his environment, and play a preponderant role into the way the person is acting. As a matter of act, the categorization of a person into one group or another is not neutral for the construction and the evolution of the individual's personal identification. There is then a fundamental link between personal and social

identity. Categorization, identification and comparison are then the three principles that rule the social identity theory [6].

After having detailed the conceptual understandings of systemic trust and social identity, we are now able to characterize their linkage. The first essential occurrence is the fact that the elaboration of a social identity is partly depending on the systemic trust at work. It means that what we're considering as taken-for-granted and as a habit show our social identity, our membership to a specific group. Social membership creates then particular expectations about the way the others should act. For example, in the US during the 60's, a new social community of aids sufferers emerges from critical reactions against the paternalistic position maintained by the doctors about experimental treatments. The latter refuse at first on the base of deontological reasons to practise experimental operations on those patients, who through a same claim discover themselves sharing a same social identity. To sum up, the aids sufferers' community discovers its existence from a trust issue about the health system, and has obtained benefit because they succeed in the creation of this membership and from their capacity to make themselves heard by the experts [7].

Secondly, we can easily understand from this example that reaching a high level of systemic trust requires a wide comprehension of the plurality of the identities at stake. Indeed, recent works about social identity show that there is an increasing need of adequately questioning at the social and political level the relation between the singular positioning and the different level of membership of an individual in order to create or increase social trust, and, in other words, to generate the belief of the possibility of living all together [8].

Due to the delegation of social control to CCTvs, surveillance systems raise a low social normativity by the atomisation of individuals, which infringes trust and alter individuation – the way people see themselves – by selecting one identification paradigm. Not only will people take less and less care of the others because the surveillance's role will now be delegated to technical devices, but above all, the homogenization of the behaviours expected in public spaces in function of a predetermined pattern of what the normality is, combined with spreading of the feeling to be automatically categorized, raises issues in term of the respect of the autonomy for the individual to control his own social identity, and presents the risk to severely diminish the level of systemic trust.

2. Consent and social identity

As we have just seen in the first part, a low level of social trust represents a lack of legitimacy against the norms' setting up, which leads to question the acceptability of these ones. We will now start another

consideration mobilizing more political thoughts about the consent. This second theoretical aim of our contribution consists then in showing how the social acceptability and the consent are connected to social identity. ICTs in this context have an impact on the social identity by short-circuiting the social acceptability and operating an alteration of the consent. Firstly, let's see what lies behind this concept of consent.

In some contexts – e.g. medical context, the term consent is preceded by "free and informed". Free and informed consent therefore refers to a person's choice to become a subject of research, and is brought about through dialogue between the research investigator or study representative, and a prospective subject and/or the person's authorized third party. Sufficient time must be allotted to communicate a thorough explanation of the study, and of the responsibilities of both investigator and subject. The prospective subject must be given adequate time to consider the information before making the decision on participation to avoid coercion or undue influence. The discussion is followed by the investigator's determination that the person realizes what is required of a subject, and recognizes the related risks and potential benefits of participation. Free and informed consent is limited, in this case, to an individual judgment.

In the case of everyday-life surveillance, consent to be monitored is not really asked to people, they are only informed. A lot of ICTs circumstances result from policy decisions about security and surveillance and thus should imply a public debate. It forces to widen and open the concept of free and informed consent. That is the reason why we notice that to be informed is not sufficient to really consent to be controlled by CCTvs. At a first level, to consent is to agree after being informed of what could happen to your privacy and human dignity, which raises the autonomy problem. At a second level, information alone is not sufficient to reach a real consent, because in some cases, each of us must consent.

That problematic of consent is firstly related to identity by the concept of human autonomy. Indeed, we can consider autonomy as the capacity of a rational individual to make an informed decision, and the self-governing of a people. Autonomy is often used as the basis for determining moral and legal responsibility for one's actions. It is also considered as a criterion of political status in which autonomous agency is seen as necessary (and for some sufficient) for the condition of equal political standing. We can then consider personal and political autonomy as a part of social identity. Therefore, if consent is surely an index of personal autonomy, it should be an index of deliberative and collective choice about – in our case – CCTvs and other ICTs invasions in public spaces.

The public consent procedures must be enlarged in the case of CCTvs context, where an invisible surveillance sometimes changes the social links. Information in itself is not enough to satisfy the requirements of an

"acceptable" world of everyday-life surveillance. The personal data collected and stored are not ensured to be protected, as it is required in the Data Protection Directive 95/46. "To be legitimate, personal data may only be processed if the data subject has unambiguously given his consent OR if the processing is necessary for (1) the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract, or (2) compliance with a legal obligation to which the controller is subject, or (3) protecting the vital interests of the data subject, or (4) the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller or in a third party to whom the data are disclosed, or (5) the purposes of the legitimate interests pursued by the controller or by the third party or parties to whom the data are disclosed, except where such interests are overridden by the interests for fundamental rights and freedoms of the data subject (article 7)." [9]

Widening the free and informed consent in the public area leads us to consider the process of social acceptability. We can define the social acceptability as a concept that requires to be more elaborated from what is called acceptance. It is the result of a long-term process, which includes debates between the civil society, policy decision-makers, stakeholders, experts... This process should be understood as a dynamic process: it does not end with a particular outcome or result; rather it is an ongoing process. Technical conditions and solutions evolve and continue to be influenced by the actual social and economic interests. Factors including prior experiences, personal values, social norms, knowledge about the problem, the quality of the received information, beliefs about the fairness of outcomes or decision processes, trust in decision-makers, and risk perceptions have to be taken in account. As those factors change over time, acceptability judgments can change as well. After action is taken, costs and consequences become apparent.

In the past, public acceptance often has been considered in a stimulus-response sense – experts and stakeholders act, people judge. Now an important part for the task of developing more durable and socially acceptable policy decisions is to cultivate understanding. This involves creating, disseminating, and evaluating knowledge as well as methods for generating and realizing alternatives. The process is iterative; discussion of problems and options results in more stakeholders surfacing, which then enrich the problem definition. We insist, therefore, that the decision-making process may be just as significant as the decision: too often decision-makers focus on public acceptance of a decision without fully considering the process by which those decisions are made. The public's idea of fairness and legitimacy involves the quality of the decision-making procedures.

Actually, M. W. Brunson identified acceptability as "a condition that results from a judgmental process by which individuals 1) compare the

perceived reality with its known alternatives; and 2) decide whether the real condition is superior, or sufficiently similar, to the most favourable alternative condition" [10]. Thus, judgments about acceptability are made at the individual level, but they progress, answering to a mass of external influences. Therefore, Brunson reserved the term social acceptability to refer to aggregate forms of public consent whereby judgments are shared and articulated by an identifiable and politically relevant segment of the citizenry. Accounting for social acceptability reflects then a normative perspective.

There is a need to embed ethical and value considerations in all stages of the decision-making process and the outcome. The ethical considerations need to be discussed openly. The process should be conducted in a way appropriate to making public policy in a free, pluralistic, and democratic society; publicly identify and discuss limits to the current state of knowledge and areas of uncertainty; in a way which is transparent; consistent with the precautionary principle.

Conclusion

Our aim through this paper wasn't to give a detailed description of all the issues surrounding CCTvs practice, but to raise some important issues which need to be discussed as fast as possible. This new technique becomes more and more implemented, and there's an urgent need to publicly debate its social consequences. Another thing to understand here is that we're not radically opposed to the technical evolution in general! Our will doesn't consist to simply reject the use of CCTvs, but to criticize the way by which it has been developed and regulated without questioning people's assent. For us, actual CCTvs usages are perfect examples of a technocratic development in which only a few experts have had the chance to debate the social impacts of the new technique – if only they really had that discussion. Indeed, one of the characteristic of the systems in general, and of the technical one in this particular case, is to think and approach the subject of the study with its own particular language and tools.

But the social sphere hasn't the same code of information interpretation than the one used by the technical sphere, even if these two are fundamentally interrelated. Actually, this is precisely because of this modern and irreducible interrelation between the social and the technical domains, leading to the fact that the technical evolution has strong impacts on our way of living and modifies our references to the world, that we cannot jeopardize their balance by leaving the technical evolution out of our sight, as an automatic and autonomous power which we simply cannot control. It is our responsibility to take care of the technical course of our modernity, and to think about the kind of world that we want to construct.

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