You Are Being Watched:

Review of Kevin Macnish, *The Ethics of Surveillance*, Routledge, 2018, ISBN 978-1-138-64379-6, 215+vii pp.

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An introductory review of the ethics of surveillance has a somewhat tricky problem concerning presentation. How best to carve up the space to communicate it to students, or to act as a course textbook? Surveillance has its clear conditions – an individual is the particular object of sustained attention for some reason (though even here there are exceptions – if I have a deep conversation with you, it would be a stretch to say that you were under surveillance from me). Usually, surveillance is covert and non-consensual, but it doesn't have to be. Its purpose may be control, or care. The techniques used are many and varied. It can involve watching, listening, reading, record-keeping, data mining on computer keystrokes, network construction from email metadata, mapping movements via a GPS system, or gathering timesheets filled in by the object of the surveillance.

Kevin Macnish's *The Ethics of Surveillance* chooses an unusual and interesting structure. After an introductory set of chapters of 75 pages or so describing the history of thought in the area, the main harms it can cause, and some of the key issues (chiefly surrounding consent), the bulk of the book consists of 11 'applied contexts' where surveillance is relevant. Some of these concern the state (espionage, national security, policing and the welfare state), while the rest generally assume that surveillants act in a private capacity (ranging from corporate espionage to journalism, CCTV to carers for the young or elderly). This means that many relatively unexplored corners of the surveillance industry, such as private investigations or surveillance of employees by employers, receive useful philosophical attention: while lawyers have tussled over these topics, philosophers and political theorists have preferred to focus on headline issues like digital mass surveillance post-Snowden. This, combined with Macnish's even-handedness, means that students get a good sense of the range of uses of surveillance in today's society (usually with a UK focus), and realise how dependent we are (and maybe have always been) on the practice. 'Case studies' (really discussion pieces) provide bases for class debates.

On the other hand, this makes for a less than engaging read from cover to cover, as there is inevitably a deal of repetition – the harms that can be caused by journalism

are repeated by private investigators, for example. Honeytraps pop up a lot through the book. Professional ethics often loom large. Paternalism dogs the welfare system as much as it does care for the elderly. Powers can be misused, consent abused, in most of the areas. The rightness or otherwise of surveillance often depends on whether it is proportional to a beneficial aim. The calculations that an ethicist has to make in each of these contexts are not that different, even if the circumstances are interestingly various. Another inevitable cost is that some of the chapters covering more unusual areas have no serious literature to draw upon: there is not much academic work on corporate espionage; workplace surveillance leans heavily on a University of Stockholm PhD from 2007; while private investigation brings a mere two references, and no doubt grateful thanks to Brian Willingham (a PI who tweets @b_willingham) for discussions. Still, Macnish is at least helping surface these undertheorised obscurities.

Macnish's even hand is not quite mirrored in his object-facing treatment, which usually focuses on whether the harms of surveillance can be justified. There is less on the other side of the coin – for instance, the fiduciary duty of company managers to ensure that employees are not diddling company owners by working short hours or Instagramming during work time. Some well-known philosophical debates affecting the surveillant, like the principal-agent problem, are downgraded in favour of those that impact the object of surveillance, like the doctrine of double effect.

The specific is also favoured against the general lessons of meta-ethical critique. Macnish eschews discussion of the Big Topics like deontology, utilitarianism, virtue ethics and the like, and uses his philosophical acumen instead to disentangle smaller, more local conundrums, such as where he skilfully deconstructs the multiple and inconsistent uses of the term 'fishing expedition' in the UK's Leveson Inquiry (pp.161-162).

Partly as a result of the context-based structure, it feels like there is a technology-shaped hole. Of course, there is much written about technology already, and Macnish is keen to emphasise that surveillance as a philosophical problem has always been with us. Nevertheless, technology sometimes poses interesting ethical problems because it has been designed to take advantage of ethical loopholes. FLIR (Forward-Looking Infrared) can detect thermal patterns within a house from a position outside it (it can be used to detect marijuana farming operations); is that an unreasonable search? Is it different from simply staring at, or photographing, the outside of a house (and if so, why)? Is it different from something like dumpster diving? It seems to depend on whether we view the infrared radiation as emanating from the wall, or through the wall (Kerr & McGill 2007), but either way it's not a problem that emerged before the technology was invented. The chapter on commercial surveillance is fine as far as it goes, but it doesn't go into massive detail about the surveillance that is a by-product of Internet use, that is increasingly thoroughgoing as more of our interactions happen online (and indeed online interaction is now often compulsory). There is very little on machine learning, or indeed the transformative potential of any techniques, digital or non-digital, for extracting weak signals from noise. Social networks are surely ethically challenging enough to warrant more than two pages; something about Facebook's research into 'emotional contagion' (O'Hara 2015) would be merited, for instance (whereas the ethical issue Macnish highlights is Facebook's censoring of the famous photo of a naked Vietnamese girl screaming in agony following a Napalm attack – certainly ethically charged, but not really to do with surveillance). Former Google CEO Eric Schmidt once summarised its

surveillance-and-advertising model as "to get right up to the creepy line and not cross it". Doesn't that sentence itself cross the creepy line? And (why) does that matter? Some have even argued that capitalism has been transformed in order to monetise the data one exudes via the Web (Zuboff 2015); isn't that shift in practices of exchange ethically significant? It is true that this is well-trodden ground, and Macnish wants to illuminate obscurer issues, but more references for the interested student would have been welcome.

Another force that the structure dissipates across the book is that of governments attempting to render their citizens legible to them (Scott 1998). Maps, planned cities, statistics, all create patterns that are invisible to anyone without access to them; surveillance can create new facts about us, or make regularities evident to anyone able to adopt a synoptic point of view. Macnish poses the important question of whether surveillance of social welfare claimants is about care or fraud detection; absolutely, but it goes deeper than that.

The format of the book, which presumably mirrors the rest of the Routledge series, does not serve Macnish well. Typically, there are only two levels of headings used within chapters, but some of the discussions have a natural division into three. Chapter Two needs a higher level division into privacy and non-privacy wrongs, while Chapter Three would naturally divide its exposition of consent from non-consensual issues. This poor structuring means that, for instance, Chapter Three has a top-level section called 'Summary' (p.55), which is then followed by seven more top-level sections, the last of which is a 'Conclusion' (which itself is then followed by a schematic section called 'Summary').

Apart from the odd logic of this, the scholarly apparatus of the chapters itself encourages repetition. The text of each one ends with a 'Conclusion', usually of half a page or less, and then is followed by a set of bullet points, called 'Summary', which repeats the points made in the 'Conclusion'. Then comes a full set of references in endnotes. Next we have 'Further Reading', usually including readings already cited in the endnotes. Finally, the chapter is completed with the full set of references, repeated from the endnotes, but in alphabetical order. A good 30 pages could have been saved either with the use of Harvard referencing, or with the removal of the redundant alphabetical list of references.

References

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