

FROM
"THE END OF
PRIVACY"

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By

C. SYKES

Prologue and Introduction

Before breakfast, a businesswoman signs on to the Internet, checks her e-mail, and orders flowers. Even before she has signed off, her on-line movements have left a trail of data that has been added to her profile, including the fact that the recipient of the flowers is a thirty-two-year-old man who lives in the next suburb. Her phone records indicate a number of late-night calls to the man's residence. While she was on-line, every icon she clicked on was tracked and recorded. Someone was learning about her. Several discreet "cookies" are left behind on her hard drive.

Later that week, her purchase of the flowers will be matched and merged with the fact she vacations in Aruba, buys lingerie from Victoria's Secret, uses a high-end hair color, and drives a late-model car. Her name will be sold to marketers looking for consumers who fit that profile. The same marketers have a dossier that already runs to more than eighty-five pages about her spending habits. Every time she uses the smart card at her grocery store, the profile expands, including her recent purchase of hemorrhoid medication, contraceptives, and her preference for cabernets. She is unaware that her ex-husband's attorney has just obtained a copy. Others will be interested to learn that she logged onto an Internet message board for patients with breast cancer for the fourth consecutive day. The next week, she will unexpectedly be denied a new home mortgage.

As she leaves her apartment, the security cameras capture her departure. She seldom notices them anymore, but the cameras keep record of her comings and goings as well as those of her guests. It makes for amusing viewing at the security staff's Christmas party.

The e-mail she read before breakfast was from a coworker, who told her he planned to quit. Writing back, she expressed her own ambivalence

about her bosses. Their supervisor, who will be waiting in her office, read both the message and her reply. Once in her car, she makes a call on her cell phone, which instantly allows her location to be pinpointed exactly (the FCC has approved new rules that require cell phones to be trackable by law enforcement); and as she speaks her conversation can easily be heard on a nearby scanner. As she passes through a tollbooth, her presence is electronically recorded by an intelligent transportation system, whose cameras snap her license plate number, recognizing it as the same car that passed the checkpoint two days earlier at 2:30 A.M.

She flips on the radio, which reports that Chelsea Clinton has broken up with her boyfriend and has checked into a clinic with stress-related symptoms. Later that day, she has her own appointment with her psychologist, who at the moment is meeting with a representative of her HMO, which is undertaking a "utilization review," a procedure that requires the doctor to turn over all of his patient files. As she drives to work, a representative of the company is reading her therapist's notes about her night terrors. She occasionally wonders about the mail she receives advertising new antidepressants, but it does not occur to her that her pharmacy has been selling her name.

Privacy is like oxygen. We really appreciate it only when it is gone. The death of Princess Diana, the political convulsions over Bill Clinton's sex life, celebrity complaints about the predatory media give the issue prominence. But it is not the violations of the famous that make the battle over privacy the preeminent issue of the Information Age. It is the erosion of privacy in our everyday lives.

Snoops have always been with us. From time immemorial, gossips, nags, governments, and journalists have tried to listen in our conversations, follow our comings and goings and hunt for grist for their endlessly turning mills. What's new, however, is the tools they now have at hand to watch, listen, and record. Technology makes the fears of the paranoiac of the past seem Pollyanna-ish compared with the realities of the present and the prospects of the future. If it remains true that everyone is famous for at least fifteen minutes, it is also true that the average citizen now experiences the loss of privacy once reserved for the famous and infamous.

Questions of privacy touch us in nearly every aspect of our lives, from

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*Warren Leary,
Times, March 6

our relationships with our doctors, to our ability to communicate on the Net, to the intimacy of our personal relationships.

At the end of the century, the challenge to privacy comes from many fronts:

- Modern technology has made it possible to create vast new dossiers of extraordinary detail and specificity about our tastes, habits, and lives. Every time you apply for a job, subscribe to a magazine, call a mail-order catalog, use a credit card, dial a phone, seek credit, fly on an airplane, buy insurance, rent an apartment, drive a car, pay taxes, get married or divorced, sue someone, see a doctor, use a smart card, apply for government licenses or benefits, you become part of the dataweb, which has proven far more powerful than the paper trails of bygone years.
- People are increasingly anxious about the erosion of their personal privacy. In a 1998 Louis Harris poll, 88 percent of Americans said they were concerned about their privacy, while a majority (55 percent) said they were "very concerned."
- The Internet has rewritten the rules of private and public life, providing an illusion of privacy in a realm that actually is a fishbowl.
- Even as the private sector develops new techniques for tracking us, new government databases ranging from information about newly hired workers to airline passengers threatens to create a seamless dataweb that blurs the lines between government surveillance and commercial marketing.
- The National Research Council has warned that the medical records of millions of Americans are vulnerable to abuse, noting that "today there are no strong incentives to safeguard patient information because patients, industry groups and government regulators aren't demanding protection."* The federal government continues to move toward creating a single universal medical identifier that will track every visit to a doctor's office, every treatment, and every prescription for every patient from cradle to grave.

*Warren Leary, "Panel Cites Lack of Security on Medical Records," *The New York Times*, March 6, 1997.

- In politics the personal has become the political, shrinking the zone of privacy, making the lives of politicians—and the rest of us—fair game. Both the Nannies of the welfare state (in the name of compassion) and the Grundies of the right (in the name of virtue) continue to narrow the zone of our lives that is no one else's business. The loss of privacy has, in effect, become a tax on involvement in public affairs.
- Fueled by our penchant for therapy and sharing, Americans share their intimacies and dysfunctions with therapists, casual acquaintances, and national television audiences. Although the effect is numbing—does anything shock us anymore?—the pressure grows for the rest of us to join in the orgy of self-exposure lest we be suspected of unhealthy repression or concealing guilty secrets.
- The hypercompetitive media continually revise their standards downward as the line between the tabloids and the mainstream press is erased. Salacious gossip in tabloids that would have once been trash-canned with scarcely a comment, now is fodder even for the gray ladies of the establishment press. The Internet is rapidly breaking down whatever barriers between rumor and news that may have survived.
- Workplaces continue to be no-privacy zones, where employers read the e-mail, listen to the phone calls, electronically monitor, and videotape employees. One survey found that nearly three-quarters of large corporations collect information about their workers beyond what employees provide voluntarily; more than two-thirds report hiring private investigators to check into the background of their workers. More than one-third use medical records to make decisions about employees.
- Anxious to protect its own secrets, the government remains jealous of the ability of citizens to keep their own. Law-enforcement and intelligence agencies want to deny the rest of us the ability to encode our own communications to prevent their easy interception or reading.

It is easy to see what it at stake:

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*The preamble to the Bill of Rights requires that the government protect the state and private property which underpins the economy and freedom of expression of every person.

it resolves concerns over the privacy and the security of information transmitted through cyberspace. Privacy may be worth uncounted billions of dollars.

Perhaps even more urgently, concerns over privacy threaten to erode many of the advances in medical science, including those involving genetic therapy. Fearful that certain information could damage their ability to obtain insurance or jobs, patients are already avoiding tests and even doctors altogether.

Already the political landscape is being laid waste by the assault on the private lives of public and private figures alike. At the heart of the cultural, political, and legal schism over the fate of President Bill Clinton was the question of privacy, an issue that threatens to spill over and poison public life as a whole. Ironically, an age that is obsessive about delving into the private lives of individuals is inevitably dominated at one extreme by the Puritan and the other by the pornographer. The zeal of the neo-Puritans in exposing Sodom and Gomorrah is at least equaled by the zest with which their opponents search out "hypocrisy," that gravest of all modern sins. In the campaign to explode privacy, what begins with piety ends with pornography. The Moral Majority meets *Hustler*.

But the greatest threats—obscured in debates over sexual McCarthyism, media intrusion, and technological snooping—go to the heart of our self-identity. Some commentators suggest that privacy is the essence of being human; but, in fact, it is quite possible to be human without privacy. It is more accurate to say that privacy is essential to being a *free* human being.* As Justice Louis Brandeis suggested more than a century ago, privacy—the right to be let alone—is the most valued, if not most celebrated, right enjoyed by Americans. Neither the Founding Fathers of the eighteenth century nor Brandeis of the nineteenth century thought that privacy was optional. How much less so in the twentieth and twenty-first centuries, when others have the power literally to watch us through walls.

*The preamble to the Australian Privacy Charter declares: "A free and democratic society requires respect for the autonomy of individuals, and limits the power of both state and private organizations to intrude on their autonomy . . . Privacy is a key value which underpins human dignity and other key values such as freedom of association and freedom of speech . . . Privacy is a basic human right and the reasonable expectation of every person."

BALANCING ACTS

The truth is that as much as we deplore the erosion of privacy—and we can be quite eloquent on the subject—many of us accept the violations in the name of a wide range of equally attractive virtues and interests. To paraphrase Jane Austen, privacy is a value that everyone speaks well of, but no one remembers to do anything about. No one disparages privacy to its face. They simply choose to emphasize the public's right to know, national security, personal safety, conveniences, economic opportunity, politics, ideology, or the pursuit of virtue. Privacy may be all well and good, but the economics of direct marketing are often far more compelling, the hyper-competitive environment of the new media makes reticence seem an unaffordable and archaic luxury, and, anyway, what are you trying to hide? Indeed, attempts to protect privacy are frequently regarded with suspicion. "There is not a crime," thundered Joseph Pulitzer, "there is not a dodge, there is not a trick, there is not a swindle, there is not a vice which does not live by secrecy."

The early privacy advocate E. L. Godkin, once told the story of a traveler in a Western mining town who "pinned a shirt across his open window on the piazza while performing his toilet; after a few minutes he saw it drawn aside roughly by a hand from without, and on asking what it meant, a voice answered, "We want to know what there is so darned private going on in there?"¹ The question still makes us uncomfortable.

These days, privacy is whipsawed from both the left and the right. As incompatible as their various agendas might be, virtucrats of all stripes are united in believing that the "personal is political," a slogan that now sounds grimly ironic in the post-Lewinsky political world. Originally used by feminists, to argue that issues like day care should be matters of public concern, the personalization of politics represents a deeper shift in the political debate. Whatever the original intent of the slogan, describing the personal as the political shrinks the zone of privacy while expanding the areas of our lives that are seen to be "everybody's business." Public debates center increasingly not around issues of great moment, but around various aspects of personal life and conduct, including what we eat, what we drink, what we smoke, how we recycle, and how we bond with our kids—tearing down the walls that once divided the public from the private realms.

In some respects, this focus reflects the temper of the times. Having lost faith in their ability to solve big problems, modern do-gooders have

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turned to small ones. Frustrated at their failure to fix society, they have turned to fixing one another and the rest of us, as well. As strangers show an ever-increasing enthusiasm to hector their neighbors and intrude into their lives, nagging has virtually become a national pastime.

Unfortunately for privacy, this means a two-front war. If liberals seem anxious to intrude into private lives in the name of "compassion," conservatives often act as if they want the state to be the arbiter of community and personal morality. While the left has supported the proliferation of government-run social-welfare databases, the right has championed the demands of law-enforcement agencies that want a back door to our personal communications. Conservatives object to government intrusions such as a national ID, but are reluctant to support any restrictions on the growth of massive private-sector data dossiers, even though they increasingly blur lines between government and private information-gathering. The left has a proud tradition of defending civil liberties, but therapeutic liberalism has waxed especially enthusiastic over the notion that it takes a whole village to raise your children.

SHUT UP, WE EXPLAINED

The political and ideological threats are dramatically magnified by the more general spirit of the age. We are not the first culture to revel in gossip, but our distinctive contribution is not gossip, but exhibitionism. Having perfectly soundproof walls, we have become a society that cannot shut up. The classical belief that the unexamined life was not worth living has been replaced by our modern conviction that the unpublicized, unexposed life that has no socially redeeming value.

Not only does the love that dare not speak its name now never shut up—no one else does either. The result is a society of way-too-much-information.

Richard Rhodes assaults us with the details of his sex life with a specificity that goes beyond excruciating. Kathryn Harrison feels compelled to publish accounts of her incestuous affair with her father. Joyce Maynard seeks to claw her way upward from mediocrity by exposing her relationship with the intensely private and reclusive J. D. Salinger. Dr. Laura's ex-boyfriend sells nude pictures of the virtues maven for posting on the Web. Dr. Jack Kevorkian and *60 Minutes* team up for a televised episode of euthanasia. Even the most famous privacy victims, Princess Diana and Bill

Clinton, found it necessary to share details about their most intimate affairs with worldwide audiences. Perhaps this is inevitable in a postmodern celebrity culture that has traded achievement for publicity; restraint for exposure; reticence for "authenticity"; and decency for self-revelation. Daytime television has become a national town hall of confession, peopled with a class of individuals willing to endure any humiliation or pay any price to escape their privacy. Unable to achieve fame through accomplishments or actual celebrity through other means, they offer their privacy as the kindling for their moment of pseudo-celebrity, especially on television. Television may be the ideal forum for the modern culture of confession because it provides the illusion of intimacy without the accountability and messiness of real relationships. For many Americans, it seems that reality is such a fragile concept that they are not really sure anything is real unless it is on television. Since nothing is fixed or sure, the virtual reality of television actually becomes more real than "real" life—untelevised life. Privacy is worse than irrelevant.

It is what nobody sees; there is no there there.

This has profound consequences for families, especially since we no longer have secrets from one another, or from our children. The young are no longer the uninitiated or the innocent. They no longer have to pass through various stages as they are socialized and introduced to the secrets of adulthood. All the veils are down. Any child who watches television, author James Twitchell notes, "sees things that only adults would have known of in a pre-electronic world."² On the Internet they can find out about things that adults do that even many adults have never imagined.

Of course, despite all of the claims made on its behalf, the explosion of sex-talk has demonstrably not made us healthier or wiser in matters sexual. Nor has the orgy of self-exposure and confessionism made us more insightful. There is little evidence that the prurient press has appreciably raised our moral standards. Reading the peccadilloes and private quirks of celebrities and pseudo-celebrities has not had the cautionary effects its advocates would seem to claim for such intrusive journalism. Yet, the culture of full disclosure does not seem likely to wither away. It has however, established a cultural climate of disdain for privacy and distrust of those who avoid exposure or insist on keeping their private lives to themselves. That, in turn, influences the cultural, political, and legal climate for privacy.

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But it is not the freakish or the abnormal that is most alarming: it is the routine, the habitual, the almost numbing regularity with which others intrude on our private life. At times it may be possible to ignore the implications of all of this. We believe that we can chip away at others' privacy, but keep our own intact. All the while, we are changing the standards of what is private and what is public, shifting the lines depending on our moods, our politics, or the light. Perhaps the best example is how we feel about sex.

Is sex our most private or our most public activity? Starting in the 1960s, the courts have carved out a special zone of constitutionally protected privacy for almost all matters sexual, from the reading of pornography, to the right to procreate, to contraception, and even abortion. But if sex is private, one would not know it from going to the movies, reading the papers, or watching the typical prime-time sitcom. In modern culture, sex is as private as any other national pastime, and it gets higher ratings than baseball. Nor is this simply a matter of culture: sexual-harassment law has turned some of the relations between men and women into matters of law and political debate. We have found, however, that the loss of privacy, like any once-released genie, is very, very difficult to put back into the bottle.

THE PRIVACY PARADOX

Having said all of this, defenders of privacy need to confront several difficult questions: If there is a genuine concern for personal privacy, as public opinion polls consistently indicate, then why do so many people behave as if they did not care about their privacy? Why do people tell pollsters they are alarmed about the loss of privacy, but then blithely give out their credit-card numbers over the Internet? Or sign consent forms that allow sensitive medical information to be seen by dozens of eyes? Even granting the institutional power of the antiprivacy forces, why has the political support for privacy protections been so ineffectual?

First, few Americans have anything but the vaguest idea just how much of their lives is transparent, or how vulnerable they are to the new technologies and instruments of surveillance and monitoring. But even among those who do have some idea that their privacy is in jeopardy, many feel powerless to do anything about it, perhaps seeing it as an inevitable by-product of the information age.

But there is another explanation as well. Privacy is not an absolute; like

free speech, or any other right, it must be weighed in the balance against such values as freedom of information, free trade, national security, and the public's need to know. Indeed, there are so many competing claims that privacy can hope to survive the balancing tests only if it is well established and well understood as a basic principle. But it is neither. Its legal status is confused, at best. And among the lost arts of our age is the ability to gracefully tell another, "It's none of your business." In part, that is because we forget too often why privacy matters.

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Why It Matters

What Privacy Is—and What It Is Not

For some of us, privacy is simply the right to be let alone; but having said that, what precisely does it mean? Is privacy simply a matter of protecting our solitude? Is privacy something we can expect only when we are by ourselves, when no one else can see us, or gain access to us? Or does privacy extend beyond solitude to our relations with others—our family, friends, and associates? Are there times we can expect a modicum of privacy even when we are in public or engaged in public affairs? Is privacy the right to control information about ourselves? If so, what information? Can we really hope to control what impression we make? Can we regulate others' reactions to our behavior?

Our experience of privacy is also likely to vary widely. For some of us, it is the ability to live a life unobserved, or to have a zone where we can develop intimate relations, blow off steam, relax and be ourselves in a way that is impossible in public. For others, it is to have a room or a life of their own, where they are freed from interference, judgment, and social pressure to pursue their interests, develop their talents, and take the sorts of chances that can be risked only in private. For some, privacy is what gives them a chance to repair their psyches and accumulate the moral and psychic capital they rely on when they emerge into public. For some of us, privacy is experienced in anonymity, the pleasure of being unknown or unrecognized when we travel to another city or take a vacation. (Surely one of the most significant losses of privacy for the modern celebrity is the inability to go *anywhere* without being recognized.) For some of us, privacy simply allows us to live in the twilight of public and private where we can

go out unshaven, change jobs, and even relationships without being subject to publicity. For others, privacy may simply mean not being walked in on by parents or siblings; or it may be the power to choose what they reveal about themselves to others.

Each of us will react differently to violations of our privacy; we not only have different standards, we also calibrate our responses depending on our closeness or relationships with others. But we all have our own ladders of privacy, beginning with our closest relations, moving downward in descending orders of intimacy. For some, the ladder might look like this:

spouse
[priest, minister, rabbi]
brothers and sisters
parents
children
friends
in-laws
coworkers
neighbors
marketers
employers
government
news media
ex-spouses
potential rivals/enemies

Our willingness to share information declines with each rung. Information we would share with a sister, we might be unwilling to share with a parent, much less an in-law or a neighbor. We might have no qualms about giving our neighbor information about our habits that we would be very reluctant to share with our employer; and though we might share details of our sex lives with a friend, we would be horrified to share it with a government agent or (God forbid) the media. Certainly, our greatest fear would be for an enemy to compile a detailed and damaging dossier on us.* Each

*One of the Founding Fathers, John Adams, captured this sensibility when he wrote: "Some Things which ought to be communicated to some of our Friends, that they may

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person probably has a slightly different ladder, and different criteria for sharing information. But everyone has such limits and measures, because it is nearly impossible to live without them.

THE RISE AND FALL OF PRIVACY

Until modern times, of course, people had remarkably little privacy; many of them led their whole lives without ever really being alone. Every detail of their lives was subject to the scrutiny of family members, members of the tribe, or community. Over the past two centuries, the rise of the modern has been the rise of the individual. The literature of the last 200 years is a chronicle of what it meant to discover the power and the freedom of being alone. Undoubtedly, other societies and ages have done without much privacy, but *we* cannot. Even so, a fair history of the state of privacy would not resemble anything like an even sweep either of rise or decline; there was no golden age from which we have fallen. Although we can chronicle the technologies that have enhanced the possibilities of privacy in our lives, every development and milestone has been shadowed by another taking us in quite a different direction.

The spread of prosperity, the single-family home, the automobile, the invention of television and computers have all made it possible for us to live private lives unimaginable to previous generations. We no longer live cheek by jowl with our neighbors, we can move about without crowding into buses or trains; our entertainment comes to us virtually one on one; we do not have to go to theaters or share our tastes with our neighbors. Once, our lives were hedged about by neighbors who would watch us nearly as closely as members of our own family; they would be silent—or not so silent—audience to our lives, acting sometimes as a support network, other times as a chorus of censure or unsolicited advice. They knew

improve them to our Profit and Honour or Pleasure, should be concealed from our Enemies, and from indiscreet friends, least they should be twined to our Loss, Disgrace or Mortification. I am under no moral or other obligation to publish to the World how much my Expenses or my incomes amount to yearly. There are Times when and Persons for Whom I am not obliged to tell what are my principles and Opinions in Politicks or Religion." Quoted in John H. F. Shattuck, *Rights of Privacy* (New York, National Textbook Company, 1976) pp. xiii–xiv.

how we dressed, how we shopped, whom we dated, and the meaning of the various noises and odors coming from our homes.

Today, we may not even know their names. Many of us can go through life with only a nodding acquaintance with the people who live around us and even work with us. As Janna Malamud Smith notes, an adult living in a modern suburb is unlikely to have more than a few people who know her across time in different settings.¹

But this account runs parallel to another story: the same technologies that help separate us from the crowds also make it possible to monitor and record our behaviors. Although fewer people have intimate knowledge of our lives, many people—mostly unknown to us—know something about us. Here is the rub. The very technology that was supposed to free us from mass society and the conformity of mass media, has turned out to be as much a fishbowl as an information highway. In modern society, we have discovered that being free often means also being naked. The same society that allows us to live anonymously relies on surveillance to keep track of us because we are a society of strangers. We can close the blinds on our neighbors, but we have also opened doors to strangers who now know what we eat, what we wear, how we shop, who our doctor is, how much we earn, where we work, what drugs we take, and what we read.

Historical comparisons are useful, but also limited because the conditions of privacy in the modern technological world are, in fact, radically different from the challenges it faced in the past. Some critics dismiss concerns about massive commercial databases that track individual purchases and buying habits, by saying that such information was really no different from small-town gossip. But this misses the fundamental difference between being known by neighbors and friends, and being monitored by a faceless database. As intrusive as small-town gossip might have been, it was always shaded by some personal knowledge and connection. Being watched by a neighbor is not at all of the same magnitude as being watched by a bureaucracy, or tracked by a dataweb that misses little and forgets nothing.²

The second paradox of privacy is that even though most of us have far more physical privacy, many of us seem extraordinarily anxious to get rid of that privacy. A man can reasonably expect to be left alone in his home, safe from prying eyes. But that same man can turn on the television set on any

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WATCHING EYES

Perhaps the best way to understand privacy is to consider what life is like when we are stripped of a zone of privacy. Most of the time, we simply take our privacy for granted, especially in our relations with those closest to us. But imagine this scenario: You are in a public place, spending what you think is a private moment with your child. But imagine now that you are being watched and scrutinized. Imagine that your interaction is being recorded. Your reaction will probably be determined by *whose eyes* are doing the watching. Imagine that some are hostile, some amused, some disapproving. Imagine that this unguarded moment with your child will be publicized and used to illustrate your child-rearing abilities. Knowing this at the time, what are the chances your intimate moment will be the same as if you were not subject to such scrutiny? If you were alone?

Would you behave in exactly the same way? And would you be sure what would be for show? And what was for real? At what point is intimacy transformed into exhibitionism?

Take another example: What woman would behave the same with her lover in the presence of her parents as she would when the couple was alone? What is the chance that the couple will achieve any real intimacy if they are always within earshot of others? Or if she was being watched by a friend? A stranger? A coworker? What suitor shares his hopes and fears in front of a newspaper reporter?

How do you feel when you go into a pharmacy to buy an item of personal hygiene? A condom? Viagra? Imagine now that your in-laws know this information. How about your coworkers? Your employer?

When it comes to privacy, context also matters. Imagine, for example, that an adversary or rival came into your office one day and handed you a dossier that included detailed information about your home, business, and family. It lists your Social Security number, your home phone, your driver's license number, the value of the property you own, the record of your recent purchases or travels, perhaps a printout of recent phone numbers you have called. Imagine that the dossier also included similar information about your spouse or your children, including photographs of them going

to and from work or school, and pictures of your home. Taken individually, each piece of information is probably harmless. But in context, they become something else. Even if your adversary did not say a word, you would recognize the dossier as a *threat*. He had trespassed on your life; broken into and burglarized your privacy.

Again, imagine that when you shopped, spies wrote down what you bought, how you paid for your purchases, and even what you might have looked at. (In many ways this describes shopping today on the Internet). Or imagine that your likes and loves were chronicled daily in the pages of the local newspaper, complete with speculations from gossip neighbors about your character and your sexual preferences and practices. What might that mean for your relationships with others?

How would the spotlight affect the genuineness of your interaction with friends, lovers, and family? How long would it take before intimacy became display, personality mere show, and life flat, false, and furtive?

Think now about the most painful episodes of your life: the time you were fired, got divorced, when your child failed at school or ran afoul of the law, or when you wrestled with what seemed unsolvable dilemmas about the medical care of an aged parent. Now imagine that any of those events had been played out on the public stage or that they had been the subject of gossip columns, exposés, or the fodder for talk shows. Imagine that your divorce, your failure at work, the tribulations of raising your children were read about and commented on by your coworkers, your neighbors, people you have never met nor ever will meet; that your children's friends read about you as well. Imagine how it would feel to have your life stripped down, summarized in a few paragraphs, and your reputation fixed immovably in the amber of modern publicity, as undoubtedly was done to someone in the paper you read this morning at breakfast.

Taking our thought experiment a step further, consider what happens when privacy is utterly extinguished. Imagine a society where the personal is always the political and the distance between comrades is dissolved. We can imagine a society (George Orwell has done it for us) where we are constantly at the mercy of snoops; either informers, or surveillance devices that watch us, keep track of where we go, what we read, whom we see, what we believe, whom we love. We can easily picture a society (our century has also done this for us), in which the police have the right to burst into any home, or any room, at any time; in other words, a society in which

there was no place we could hide. Or whom you can read in the private society that is also

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there was no place that is off-limits, no place where we are safe and where we could hide. Or a society that restricted personal choices, regulating whom you can marry, how you can raise your children, or what you can read in the privacy of your own home. What we cannot imagine is such a society that is also *free*.

Both the prison and the concentration camp deprive inmates of freedom, but the tearing away of every shred of privacy is what deprives them of dignity and causes them to surrender their hold of the sense of self. The mark of a totalitarian society is precisely its lack of respect for persons and the subjection of every part of life to scrutiny, surveillance, and monitoring. A state that invades the privacy of its citizens shrinks them. Concentration camps strip humans of their dignity by stripping them of any tiny corner of privacy, where they can be undisturbed or unobserved. At Auschwitz, wrote Primo Levi, "solitude in a Camp is more precious and rare than bread."³ In the totalitarian society, everything is public, open for examination, even the most trivial aspects of life. Even lesser violations can be devastating. A successful professional woman, who was subjected to a strip search by police, describes being stripped of her defenses and dignity. Within minutes, a lifetime of accomplishment and esteem was "totally dismantled."⁴

I have a friend who discovered recently that her neighbors were watching her house, taking note of who came and went and reporting this information to others, including members of the news media, who made it subject of widespread gossip. Although no publication ensued, she felt completely violated. Her house had always been her sanctuary, a place where she could step back from the rigors of a difficult profession, where she could take pleasure in simple domesticity. The discovery that she was under surveillance by her neighbors destroyed whatever pleasure she had in being in and around the one place she had always regarded as safe.

To a lesser extent, patients in hospitals (where the gowns are designed specifically for their immodesty) or other institutional settings experience the same loss of identity and dignity.

The question is not necessarily whether you have anything to hide; it is whether you should have some control over who knows—or who has access to—the details of your life. Privacy is not the same thing as secrecy, although the two are often confused. There are many aspects of our lives that we expect to keep to ourselves that are not necessarily secrets. They

might include our relationship with our spouses, our children, or with God. A phone tap that overheard me ordering fried chicken would not reveal any dark secret, but it still invades my privacy.⁵ Our political opinions, the charities we support, the books we read, and movies we watch are seldom secrets, but we might wish to keep them private. A private matter becomes a secret only when snooping eyes forces us to hide or conceal things that are no one else's business.

Not surprisingly, when someone's privacy has been violated, they often use the language of rape to describe their feelings of violation. Something has been taken away from them that defines their humanity and is central to their sense of their individuality and their personhood. Privacy is not simply a matter of being protected *from* invasions, it is also a means *for* defining oneself, and entering into relationships that provide us the security to become vulnerable. In fact, it is the decision to share such confidences that defines our most intimate relationships. We don't share indiscriminately, but unveil ourselves bit by bit as we establish trust, commitment, and affection. It is in these relationships that we open ourselves and make ourselves vulnerable. We let others see us in a way that we would be ashamed to let others see us. A person with no secrets has no power to decide what he shall reveal about himself and to whom; he is denied the chance to be intimate with anyone because intimacy involves the voluntary opening of oneself. If there is nothing to open, if all secrets have been stripped out, this becomes impossible. We become a society with no place to hide.

"Just because you know some details about a person's life doesn't mean you know the person," says the actress playing Jacqueline Kennedy Onassis in the Broadway play, *Jackie: An American Life*.⁶

Many people know details of our lives. Those details are laid out in reams of data about our habits, our loves, likes, tastes. They can be scanned, merged, collated, sold, examined. Our lives are on file—or, at least, the details of those lives, which is not the same thing at all. This may sound like an abstract point, but we can recognize it instinctively. A single event of our lives or even a series of things—conversations, purchases, comments—can be made to seem like a portrait of our lives, but they are not, because they cannot be understood isolated from their context. And

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that context can be understood only by those who know us well, those with whom we have chosen to share varying levels of insight into our characters, likes and dislikes. Even if we stumble across one of our own letters or keepsakes from decades ago, we may momentarily be unable to associate it with the affections and emotions that once animated it and gave it meaning. Without that dimension, it is simply a dry artifact, a meaningless clue, rather than a living part of our lives. The same is true of almost all of our relationships. Take the intimate relations between a man and a woman; strip away the privacy of the sex act and it becomes not intimacy, but exhibitionism. Drain it of affection and intimate attachment, and it becomes pornography.

Indeed, some experiences seem to be meant only for privacy, and change their character fundamentally if they are made public. In moments of great grief or trauma, why do we seek out solitude, or the company of loved ones? Why do our most profound moments occur away from the limelight? Part of the answer is instinctual: We are still the creatures who blush. But our reticence also has to do with a sense of propriety. Love exposed to public attention inevitably becomes mere show, while acts of "conspicuous goodness," confession, contrition, and emotionalism run the risk of devolving into preening and self-indulgence. Dietrich Bonhoeffer, who died in terrifying circumstances at the hands of the Nazis, cautioned even against discussing feelings such as terror in public, because such sharing "involved a near inescapable element of exhibitionism."⁷

We frequently justify such random acts of self-exposure as evidence of our "sincerity." But public sincerity is sincerity in search of an *edge*.

Emotions once reserved for privacy become tools for political advantage, to create or burnish an image, or perhaps to evade responsibility. The false note creeps into every display of public emotionalism. Celebrations of grief become pleas for sympathy or advertisements for our sensitivity; acts of penitence are turned into ruses to evade punishment. Public weeping and confession—a la televangelist Jimmy Swaggart—seem fake and cynical precisely because they are emotions played to an audience. Swaggart and others might well have heeded the New Testament's warning against parading one's piety and Christ's admonition that the loudest prayers are often declarations of moral superiority and sanctimoniousness rather than acts of humility or piety.

PUBLIC AND PRIVATE

Lost in much of the debate over what should be made public and what should be kept private is the role of the private life in making our public life possible. We can easily understand the importance of shielding our private lives from the glare of publicity. But it is equally important for the future of the public realm of our lives to preserve a sacred zone of privacy, walled off from the tumult of politics, publicity, and debate. Hannah Arendt argues that privacy guarantees the depth of life because it contains "a great many things which cannot withstand the implacable light of the constant presence of others on the public scene."⁸ But she also warns against tearing down the walls that guarded the sacred privacies of life, because these same walls also made public life itself possible. The personal could not be the political because by definition, she wrote, there could be no public life without the wall between public and private. "Without it, a public realm could no more exist than a piece of property without a fence to hedge it in; the one harbored and inclosed political life and the other sheltered and protected the biological life process of the family."⁹ Her metaphor was not merely rhetorical, because privacy and private property really represented one and the same thing.

The link between democracy and privacy is not at all accidental; without a private zone, public life is impossible. That perhaps helps explain why our era's constant assault on the privileges of private life has also meant the trivialization and erosion of public life. "Any man who was the same in both public and intimate life would be a monster," remarks Milan Kundera. "He would be without spontaneity in his private life and without responsibility in his public life."¹⁰

Notes

Prologue and Introduction

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2. James B. Twitchell, *For Shame: The Loss of Common Decency in American Culture*, (New York: St. Martin's Press, 1998), p. 199.

2. Why It Matters

1. Janna Malamud Smith, *Private Matters* (Reading, Massachusetts: Addison-Wesley, 1997), p. 66.
2. Ibid. See discussion, 70 ff. Notes Smith, "People today live with a greater feeling of daily privacy, but in many ways it is a illusion—a kind of virtual privacy. No one knows you very well, but many strangers hold pieces of your life."
3. Primo Levi, "If This is a Man: Remembering Auschwitz" (New York: Summit Books, 1985), p. 329.
4. Quoted in Ellen Alderman and Caroline Kennedy, *The Right to Privacy* (New York: Vintage Books, 1997), p. 14.
5. See discussion in Judith Decew, *In Pursuit of Privacy* (Ithaca: Cornell University Press, 1997), pp. 41ff.
6. Quoted in Ben Brantley, "'Jackie': Enter Smiling but Elusive, as Always," *The New York Times*, November 11, 1997.
7. Carl D. Schneider, *Shame, Exposure, and Privacy* (New York: W. W. Norton and Co., 1992), p. 45.
8. Hannah Arendt, *The Human Condition* (Chicago: The University of Chicago Press, 1958), p. 51.
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10. Quoted in Jean Bethke Elshtain, *Democracy on Trial* (New York: Basic Books, 1995), p. 45.

3. Trapped in the Dataweb

1. Carole A. Lane, *Naked In Cyberspace* (Wilton, CT: Pemberton Press, 1997), p. 3.
2. Robert Pear, "Social Security Closes Online Site, Citing Risks to Privacy," *The New York Times*, April 10, 1997.