The Journalist and Privacy

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The moral right to privacy consists of the power to determine who may gain access to information about oneself. Individual human beings need some measure of privacy in order to develop a sense of self and to avoid manipulation by the state. Journalists who respect the privacy rights of those on whom they report should especially be careful not to intrude watchdog fashion in gathering information; in publishing they should be able to demonstrate a public need to know private information. Individual journalists should establish their own guidelines for reporting on the private lives of different categories of people in the news.

Privacy is an issue of unparalleled importance in this decade. The ability of government, corporations, and journalists to invade the lives of private citizens has dramatically increased through the advent of ever more sensitive listening devices, chemical drug tests, credit files, and widely distributed medical files. Hungry business organizations send people such things as mail-order catalogues and credit card offers that are generated by sophisticated use of data from records of what they buy in stores.

As our ability to invade privacy has increased, so too has our willingness to do so. Witness USA Today’s probing into Arthur Ashe’s illness, mainline media revealing Patricia Bowman’s identity as William Kennedy Smith’s rape accuser, or even Senate demands for the private diaries of Senator Bob Packwood. Each of these cases involves public intrusion into private matters as well as revelation of private information in the public forum. How can we decide, and by what criteria, when an invasion of privacy is morally justified?

Totally apart from questions of ethics, the issue of privacy has become significant for the press in terms of its own self-interest, a matter of prudence. Though many people show interest in private information about others, many others are offended by journalists’ conduct, and that has led to increased distrust of the press. When we see reporters poking microphones into the face of a mother who has just witnessed a fire that killed her three children, most of us are morally outraged. (It is interesting that we witness such behavior because other photographers show their fellow journalists in action!) Is it surprising that journalists enjoy low public esteem?

Consider again the Arthur Ashe case, this time as an example of the invasion of privacy and the public response (American Press Institute, 1992). Having won at Wimbledon and in the U.S. Open, Ashe in the 1970s was
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ranked No. 1 in the tennis world. After brain surgery in 1988, he learned that he was infected with HIV, the virus that causes AIDS, as a result of a blood transfusion in 1983. Many of his friends, including a number of reporters, knew of his condition and kept his secret. But in 1993 USA Today sent a reporter to ask Ashe about his having the virus. Ashe did not answer the question but was told that the newspaper would pursue the story. Although he had wanted to make his own statement later in his own way and at a time of his own choosing, Ashe called a news conference the next day and announced to the world, against his will, that he had AIDS. Gene Policinski, sports editor for USA Today, with the support of senior executives, offered the lame excuse: "The news was that one of the great athletes of this century had a fatal illness—and that the illness was AIDS. By any journalist’s definition, that’s news" (Policinski, 1992, p. 17).

Public response to what USA Today did to Ashe was strongly negative, as was the response of responsible journalists all over the country. Most people who have had things to say about the newspaper’s moral irresponsibility and insensitivity to Ashe’s interests would acknowledge the paper’s legal right to do what it did. The concern was over the absence of a moral right to do what was perfectly legal. It is the moral concern, not the legal, that I write about here.

In what follows, I propose to inquire into the nature of privacy in human affairs, the need for it, and the right to it. A fourth section inquires into the need for privacy in relation to the need of people to know, that is, competing needs that give rise to competing rights. Finally, I suggest some moral guidelines that journalists might consider in reporting on the private lives of several categories of people.

The Nature of Privacy

To think about the ethics of privacy, one must begin by examining the meaning of the word. Bok (1982) defines privacy as "the condition of being protected from unwanted access by others—either physical access, personal information, or attention" (pp. 10–11). Westin (1967) identified privacy with "the claim of individuals, groups, or institutions to determine for themselves when, how, and to what extent information about them is communicated to others" (p. 7).

Levine (1980) shared some of Westin’s language but expanded the definition slightly when he wrote: "[Privacy] is the maintenance of a personal life-space within which the individual has a chance to be an individual, to exercise and experience his own uniqueness" (p. 19).

Similar themes appeared in Breckenridge (1980):

Privacy, in my view, is the rightful claim of the individual to determine the extent to which he wishes to share of himself with others and his control over the time, place, and circumstances to communicate to others. It means his right
to withdraw or to participate as he sees fit. It is also the individual's right to control dissemination of information about himself; it is his own personal possession. (p. 1)

Perhaps Cooley (1888) put it most succinctly when he identified privacy as "the right to be let alone" (p. 29).

The language I prefer comes from Westin. He says about privacy:

The claim is not so much one of total secrecy as it is of the right to define one's circle of intimacy—to choose who shall see beneath the quotidian mask. Loss of control over which "face" one puts on may result in literal loss of self-identity. (as quoted in Dietemann v. Time, Inc., 1971)

The visual image of a "circle of intimacy" is helpful for an understanding of what is meant by privacy. It invites us to imagine ourselves standing at the center of a series of concentric circles of intimacy in which the degree of intimacy diminishes from the innermost circle outward.

In the innermost circle you are alone. Some things about yourself you and you alone know—fantasies, unarticulated hopes, memories—and you would feel violated and invaded if someone learned those things against your will. You occupy the second circle with at least one other person, perhaps a spouse, sometimes a professional, such as a member of the clergy, a lawyer, a doctor, or a college counselor. In this second circle you share intimacies that you want only the one other person to know. You reveal yourself, your innermost being. With your spouse the revelations are, or should be if the relationship is to endure, reciprocal. If the other is your doctor or your counselor or your minister, the revelation is largely unidirectional. The point is that in this second circle you are in the primary private relation with one other human being. The bond is fiduciary. The relationship rests on trust, trust that the one to whom you have revealed yourself will neither betray the trust nor use the revelation to your disadvantage. Our law recognizes the importance of these primary relationships by not requiring spouses to testify against each other and by protecting the lawyer-client relationship.

The third circle from center contains others to whom you are very close. Under one circumstance it may include your family. It might incorporate close friends, fellow fraternity or sorority members, athletic or debate teammates. Whoever is in this circle with you comes to know things about you that you would not want to be public knowledge. You reveal some of your peculiarities—your flaws, your dreams—because you are confident that the people in this circle will not use that information to your detriment.

One can extend this image of circles to the outermost imaginable circle, the least intimate, which encompasses all humanity. There are some things about yourself that you would not object to all humanity knowing. Those things constitute your most public self.
In terms of this picture, to have privacy is to possess control over your circles of intimacy, to determine who enters each one and who does not. You may choose to be a very private person, bent on concealing yourself, or you may be very public, willing to share intimacies widely with others. Whichever you choose to be, the important issue morally is your right to decide just how public or private you will be.

The Need for Privacy

Most people acknowledge the desire for privacy, the desire to control access to their circles of intimacy. We seem to know instinctively the importance of privacy for civilized existence. But can our desire for privacy be related to a real human need? Yes. Privacy plays a central role in human affairs. Without some degree of privacy, civilized life would not be possible. The ability to control access to our circles of intimacy meets any number of basic human needs, but the two that seem uppermost are psychological and political.

The Psychological Need

Psychologically speaking, privacy is a precondition for developing a sense of self, an awareness of the boundaries between the self and others. Fischer (1980) used Erik Erikson’s description of the stages of human development from infancy to maturity. People need private relations, she noted, in order to “try out” new poses—future selves—without fear of ridiculing intrusion by others. Privacy provides the opportunity to imagine possible futures without commitment to any until several have been projected. It provides opportunities to examine fantasies, dreams, hopes, and so forth, through intimate interaction with trusted others. Privacy shields against the stifling effect of convention. In that way it protects the emerging, still-disordered self while simultaneously allowing for the continuation of custom and convention that are so essential for social order.

In other words, control over our circles of intimacy is necessary if we are to have some control over who we are, over what kind of person we are and wish to become. It gives us a chance to develop our own particular identity, that unique self-consciousness that sets us up as distinct from, but always a part of, the world and the larger mass of humanity. The human need for privacy seems self-evident to anyone who imagines what it would be like never to be alone, never to entertain a private thought or perform a private act. George Orwell’s (1949) 1984 is a sufficient reminder!

The psychological need for privacy is recognized in the law as well. Blaustein (1964), for example, noted that “our law of privacy attempts to preserve individuality by placing sanctions upon outrageous or unreasonable violation of the conditions for its sustenance.” Without it, he added, “an individual merges with the mass” (p. 962).
The Political Need

Orwell (1949) pointed also to the need for privacy as a shield against the power of the state. The more one knows about a person the easier it is to influence, manipulate, or even control him or her. In fact, some scholars argue that liberal democracy is unthinkable without effective guarantees of privacy. Neville (1980) put it this way:

Precisely because the state is seen as the agency of the citizen's own authority, its independent power is feared, and limitations on the power of the state, such as the Bill of Rights, were established in order to protect private life. Privacy then comes to be viewed as that area of personal life in which the state should make no claim, at least not without due process designed to protect privacy. One of the strong connotations of privacy today is the negative sense that it is where others have no right to intrude. (p. 25)

In this negative sense—freedom from government control—privacy is central to the liberal democratic ideal. Historically, totalitarian societies have used high visibility—the near absence of privacy—as a major ingredient in their drive to produce a homogeneous and servile populace. As Dionisopoulos and Ducat (1976) noted:

Nor is it any mere coincidence that accounts for the fact that, in a free democratic society, public affairs are usually marked by openness and private affairs are normally shielded from view, while, in totalitarian states, the reverse is generally true.3 (p. 4)

Liberal democracy employs privacy as a check on the state. That fact is based on the recognition that to have knowledge about a person is to hold power over that person. One who has no privacy, one who is completely open, is readily coerced. Politically speaking, privacy represents the power to control access to one's self, and, thus, it conveys some capacity to resist the coercive power of the state.

Thus, it seems clear that, because privacy is essential to meeting basic psychological and political needs, it must not be taken lightly. Indeed, privacy lies at the very heart of the most cherished values of Western civilization: freedom, the dignity of humankind, and individual autonomy. Believing as we do in the basic right and duty of individual human beings to work out their destinies in community with others, our civilization developed ways of protecting privacy. As another writer stated:

With increasing attention to, and recognition of, human dignity in Western society in recent centuries and particularly in recent years, there has come a parallel emphasis on human rights, and central to the cluster of human rights is the right to privacy. (Bier, 1980, p. x)
We may now turn our attention from the need for and importance of privacy to the question of a right to privacy.

The Right to Privacy

Surprisingly, articulated claims to a right to privacy do not go far back in history. No specific right to privacy is guaranteed by the Bill of Rights, though it is reasonable to claim that privacy is assumed as necessary to the guarantee of other rights. In the law, tort claims based specifically on the right to privacy began to be recognized only in this century. The now-famous law review article by Warren and Brandeis (1890) is widely credited with precipitating 20th-century law of privacy. It was the law review article that launched a tort.

Though the law of privacy is both important and expanding, it is not of concern here. I am concerned, rather, with the more fundamental issue of privacy as a moral right to control the entrance of others into one’s circles of intimacy. Moral discourse always has a certain primacy over legal discourse, so moral discourse must always precede the making of laws if laws are to be wisely made.

The claim of a moral right to privacy grows ultimately out of certain observations about the very nature of the human being. Individually we are unique entities possessing our own personal identities, memories, hopes, and goals. Thus, individuals need to identify the boundaries, physical and spiritual, that set them apart as separate entities. We are in part autonomous beings, self-ruling, self-directing. Because privacy, defined as control over access to one’s circles of intimacy, is essential to self-identity and self-direction, people assert privacy as a right.

But the right to privacy is not absolute. It stands beside a countervailing right of others to know quite a lot about us as individuals. These two legitimate rights—the individual right to a measure of privacy and the right of others to know some things about the individual—frame the moral issues.

Just as the claim to a right to privacy grows out of some observations about human nature and human need, so does the claim to a right to know about others. Because we are individual beings, we have a need (right) for privacy; because we are social beings, we have a need (right) to know. People especially need to know quite a lot about those who have power over them. Paradoxically, people’s very images of themselves are shaped in quite large measures by the way others perceive them, so for that reason we need to know just how they perceive us. Moreover, our sense of individual purpose and destiny is inextricably tied to the fortunes, purposes, and destinies of others. What they do has effects on us and we on them. These observations may be summed up this way: Because humans are individual beings, the total elimination of privacy would eliminate human existence as we know it; because we are social beings, the elevation of privacy to absolute status would likewise render human existence impossible.
These claims to competing rights, taken together, frame the moral problem: Just when, in specific cases, should civil societies allow intrusion on private affairs, and under what conditions should they forbid it? Where should society draw the moral line between society's need (and right) to know and the individual's need (and right) not to reveal? More specifically, what should the responsible journalist take into account in drawing that line while gathering and disseminating information?

**Reporting and Privacy**

The privacy issue arises at two points in the reporting process. The first is at the point of gathering information, where decisions have to be made about intrusion by the journalist into the lives of subjects. The second is at the point of deciding what to publish, where decisions are made about what private facts are appropriate for dissemination. Journalists at the second point are positioned to determine for the subject what circle of intimacy the public may enter.

Whether journalists are concerned about gathering or disseminating, the general questions are these: Under what conditions is a journalist justified in gathering and reporting information about a person against that person's will? Where should reporters and editors draw the line between the private and the public self? What in specific cases justifies an invasion of individual privacy by journalists? When is it just to override an individual's right to privacy for the public good?

I suggest the following as the formal criterion: It is just for a journalist to violate the privacy of an individual only if information about that individual is of overriding public importance and the public need cannot be met by other means. As a formal criterion, of course, this does not tell us what information to publish in specific cases, but it does provide a test for any particular decision on privacy.

Note that this criterion does not permit invasion of privacy to obtain and publish information that the public is interested in but that is not important for the public to know. The mere fact that the public is curious about private information or conduct ordinarily is not sufficient reason to obtain and publish it against the will of the person reported on.

"Curiosity" is the psychological ground of many of our "interests." Most of us have a kind of healthy curiosity, or inquisitiveness, about the world around us. But we also are capable of such things as morbid curiosity and prurient interest. Clearly, the latter two are not grounds for invading someone's privacy, though they are the criteria that gossip sheets use. But even the healthy form of curiosity, where the public is legitimately interested in a story, should not be allowed to override an individual's right to privacy. That is simply because no genuine need would be served.
The mere fact that people want to know is not enough to warrant the harm done to an individual by an invasion of his or her circles of intimacy. Any significant harm to the individual outweighs the public benefit in every imaginable case. To deny a person control over his or her circles of intimacy is to deny that person a measure of dignity. Loss of control of intimacy poses a threat to one's sense of self. It deprives one of a measure of control over oneself. Better that the public be deprived of an interesting story than that journalists harm the individual about whom that story could be written. There are enough interesting stories about interesting people, which we can publish with their permission, without hearing about those who do not want to be in the news. On those grounds the principle of overriding public importance would rule out "interest" as a sufficient test.

But what would that principle allow? How might reporters and editors determine, in particular cases, what is and what is not important enough to justify an invasion of privacy? It is not possible, of course, to establish rules that are narrow enough to determine specific cases in ways that eliminate the need for careful thought. But it is possible to state some general criteria, or tests, that can guide the journalist through decisions and help test them. After all, journalists on a daily basis make judgments about the relative importance of stories.

Let us begin the search for criteria by asking what it means for a story to be important. Stories contain both information and ideas. From information and ideas people acquire knowledge that they can use in living. It follows logically that the relative importance of specific bits of knowledge can be determined only by judgments about what people need to live well in their specific environment and in their different roles—citizen, parent, worker, consumer, and so forth. What people need in order to function in those roles is ordinarily quite obvious, at least at both ends of the continuum. At one end some knowledge is clearly indispensable. For example, if citizens are to vote sensibly, they must have knowledge of what governments are doing and not doing. At the other end of the continuum of relative importance, it is of no relevance whatsoever that citizens know which of the President's knees grows the warts. In the midsection of the continuum, however, judgments about importance of information are not so obvious. They require careful thought and examination, using the question: Will this information help citizens make their own decisions more wisely? Is this "news they can use?"

Some knowledge, of course, is important because of its intrinsic value—its value as an important end in itself—that is, self-knowledge. Other knowledge is important only extrinsically—valuable only as a means to some end—that is, that Route 60 leads west to Kerrs Creek. Journalists qua journalists are seldom, if ever, called upon to deal with intrinsically valuable knowledge. Perhaps a story about a person courageously confronting adversity would qualify, because it calls reader's attention to the human con-
dition. But ordinarily the knowledge readers can gain from news columns is only extrinsically valuable: The information in news columns is important only if it can lead to knowledge the public needs in order to function well. A story, to follow this logic, is important insofar as the use to which it might be put is important. For instance, a story about the dangers of kerosene heaters is important because it enables people to use those heaters carefully or not at all. A story about a Caribbean cruise is important because it can help people plan a vacation. Moreover, the story about the heaters is more important than the one about the cruise. Why? Because saving a life is more important than taking a vacation. And such judgments are easy to make because sensible people agree most of the time on the relative importance of most things.

So, the test of importance calls for judgments about what people need to know in order to live well. Invasions of privacy, in this scheme of things, are justified only when the public's need to know private things about an individual is strong enough to override that individual's need for and moral right to privacy.

So far I have proposed the general principle of overriding public importance as a general criterion. It remains to suggest how that principle might function when applied to particular cases and classes of cases. No doubt conscientious people will disagree in the particulars, even if they accept the criterion in principle. What follows is an attempt at guidelines for several categories of people in the news.

Some Guidelines on Privacy

Public Officials

In reporting on public officials we should publish private information, even against their will, if their private activity might reasonably have a significant effect on their official performance.

It is of overwhelming importance in a democracy that the people know what their governors are doing. That knowledge is essential for responsible citizenship. The higher ranking the official, the more power that person has to improve or wreck lives. Thus, it is in the public interest to know anything about those officials that might affect their wielding of power or their discharge of the public trust. And that can include almost everything—health, leisure activities, marital condition, personal taste, and countless other subjects. But there are limits even for the highest ranking officials. The story must pass the test of having significance for the official's capacity or willingness to perform official duties.

In a democratic state, citizens have reason to want the lives of officials open to public scrutiny. Openness is essential if the public is to hold them accountable, and public people usually know that most of their privacy is lost once they enter public life. For instance, consider the case of presiden-
tial hemorrhoids. Ordinarily, it is of no public significance that some poor soul suffers from that ailment. But in the case of the President of the United States, even that becomes important news: We do not want him in pain while he is making foreign policy decisions. Also, when the President visits the hospital, it is important that the public know why, that the visit was for hemorrhoids and not a brain tumor. Similarly, the sexual activities of a senator would usually not be of importance to citizens, but when he puts his paramour on the public payroll it becomes important.

Lately, much has been made over extramarital sexual behavior by such high officials as Senator Bob Packwood (R-Oregon) and former Senator Brock Adams (D-Washington). There is concern over marital infidelity and over sexual harassment. Because private sexual activity between consenting adults, even outside marriage, poses little or no threat to performance of public duty, that activity is not a legitimate public concern under our standard. Therefore, it has no place in legitimate news. Sexual harassment, however, is quite another matter. The one being harassed gives no consent and is typically the victim of abuse of power. It is important to readers to know about harassment, but usually not about mere infidelity.

Public Figures

In reporting on public figures, we should publish private information, even against their will, if their private activity might significantly affect their performance of duties to their publics.

The public figure category includes top officials in private organizations, including senior executives in industry, business, labor, education, philanthropic organizations, and the like. News about them is important because of the power and authority they wield over others, both within and outside their own organizations. What is good for General Motors may or may not be good for the country, but it surely affects the country. For example, questions of health and medical condition, which are private matters for most citizens, are of legitimate public concern insofar as they could have significant effect on performance.

The public needs to know about those individuals who sit in private seats of power, because power can corrupt, whether in the public or the private sector. It is because of their power that public figures are more than merely interesting.

Just as for public officials, the test of importance would not justify publishing everything we can get about public figures. Some privacy should be preserved. It is difficult to imagine, for example, why the public would need to know of an executive's enjoyment of gay or lesbian rather than heterosexual companions. How could that orientation significantly affect job performance? In general, however, in reporting on the privately powerful a bias toward openness rather than privacy and secrecy is warranted, and the greater their power, the lower their threshold of privacy.
Celebrities

We should publish private information about them if readers are interested in knowing that information, provided that the information does no harm to the celebrity as a person. (The criterion of "interest" surpasses that of "importance.")

Under the law, celebrities are public figures, but morally they are different. Jack Smith, Chief Executive Officer of General Motors, is important because of his power to rule, to govern the lives of thousands. John Wayne was important because of his influence as a role model.

By "celebrities," I mean such categories as movie stars, television personalities, ball players, and the like. On the one hand, they surely have some right to privacy. On the other hand, their professional life succeeds or fails depending on their ability to become public. Their admirers are "fans" in part because of the kind of people they are, and fans want to know what the celebrity is like in real life. By their choice of occupation or social function, essentially entertainment, celebrities must waive all but the narrowest measure of privacy.

Warren Beatty (1983) states the case fairly succinctly:

Privacy is a sort of simple matter in my case. I don't have any, and I don't really expect any.

I knew what business I was going into when I went into the movies, and I think probably there is something in all of us that would be sort of disappointed to be left alone. (p. A-10)

Carol Burnett (1983) echoes some of the same:

A public figure has little in the way of private life. That's a fact of life for those involved in careers that increase public visibility; with increased visibility comes natural curiosity to know more about the person.

That the public feels a kind of intimacy with familiar figures is certainly understandable. Once an individual has achieved public recognition—almost always accomplished through willing participation—it is a journalist's prerogative to report information that he or she feels the public is interested in, or should know.

It's also the journalist's responsibility to make certain what is reported is correct. . . . Someone said that if you don't want something quoted, don't say it, and if you don't want something reported, don't do it. The injury is done in quoting what wasn't said, or in reporting what wasn't done. (p. A-10)

People like Beatty and Burnett are thus willing, or at least resigned, to sacrifice a significant measure of privacy for other rewards. Even so, although it is interesting to know about the private doings of celebrities, it is not very important in the larger scheme of things. It is important, however, that journalists do celebrities no harm by reporting conditions over which they have no control. The Arthur Ashe AIDS story is a case in point. So,
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beyond the harm principle, the moral criteria seem to be “interest” and “accuracy.” These are usually interesting people, and as human beings we need interesting stories about interesting people. And there is nothing wrong with being interested in them. They can add a measure of spice to life’s sometimes drab menu.

Temporarily Newsworthy Heroes

In reporting on people who have performed heroic acts, we should publish only that private information that relates directly to the newsworthy act.

Common citizens from time to time do things, usually acts of heroism, that for a moment put them in the limelight. Consider the case of Oliver Sipple (Elliott & Linsky, 1982). On September 22, 1975, Sipple deflected the gun that Sarah Jane Moore fired at President Gerald Ford, thus probably saving his life. Because of his heroic act it is both important and interesting that we know something about Sipple, where he came from, what he does, whether anything in his background helped him know how to deflect the gun or to generate the reflexes to do it. It was relevant, for example, that he was a former Marine. But it was not important to know personal matters not related to the action that made him a momentary hero. The fact of his gay orientation, which he did not want generally known and which his family did not know, was clearly not relevant to his action, so there was no overriding public need that would justify publishing that fact of his private life. Positive harm was done by publication of information about his gay orientation when his family abandoned him.

Thus, in the case of the temporarily newsworthy hero I suggest the guideline of publishing only that private information related directly to the newsworthy act itself. That person should have the moral right to keep everything else private if he or she wishes.

Criminals

In reporting on criminal behavior we should report all aspects of the criminal’s private life that might help to understand the criminal and his or her acts.

Society needs to have the clearest understanding of criminal behavior and of the criminal mind. The more severe the crime, that is, the more damaging the crime to individuals and society, the more justified we are in probing the criminal’s private life for clues that contribute to an understanding of the person, not merely of his or her criminal act. One might also reasonably argue that a person who has chosen to commit a criminal act has by that choice given up rights that society normally confers. Should the right to privacy be among them? Yes, insofar as probing into the criminal’s private affairs may help society in dealing with criminal conduct. Thus, the journalistic bias should be in the direction of openness and revelation rather than secrecy and privacy.
Hodges

On this point, however, a special word of caution is in order. An accused person is not a criminal until he or she has been tried and convicted. This guideline should not apply to people merely suspected of crime, not even those already arrested and bound for trial. Moreover, pretrial publicity can be seriously damaging to due process and fair trial, and for that reason editorial judgments must be made with special caution. To probe the private life of mere suspects risks serious damage to innocent people. A just society still presumes innocence until guilt is proven.

Innocent Victims of Crime and Tragedy

We should report about them only that which they give permission to publish.

This is a special category of people with special needs and vulnerability who are frequently treated badly by the press. In a Virginia hamlet, for example, a policeman was killed in the line of duty. The community, and many nearby communities, were much bestirred by the shooting. The media gave the entire affair extensive coverage. On the day of the slain officer’s funeral an area television news crew showed up at the cemetery and with a long-distance lens filmed, and subsequently broadcast, the grieving widow leaving the cemetery. The reporters did not know whether she minded being seen on the news in the state of grief. It seems arguable that if she wanted to work out her tears in the privacy and warmth of family and friends, she should have every right to do so. She should have the right to choose not to appear on television. The public, though perhaps interested, had nothing important to gain by observing her under those conditions.

Likewise, there is no public good to come from the frequent journalistic (mostly television) practice of dispatching a reporter to a burning house to film and interview the owner/victim. The burning house, the cause and extent of the fire, the danger of wood stoves, the leaking gas line are publicly important, but not the private grief of the owner. In these cases, moreover, it is possible to tell the important story of tragedy without interviewing or filming the victim. If the victim does not want to talk to the news media, the journalist who insists places an added burden on that victim. If the victim is filmed against his or her will, the victim has lost yet more control of his or her life than the loss occasioned by the fire. That loss is not balanced by a public gain. The victim’s privacy should not be violated. The victim has a right to be let alone.

Among the most hotly debated examples of reporting on victims are those involving rape and sexual molestation (Lake, 1991). It is unfortunate, but nevertheless true, that a social stigma still attaches to victims of rape. That is largely because many people continue to think of rape as a sex crime when it is in fact a particularly heinous form of violent crime. Rape victims who are identified in the media ordinarily suffer the consequences
of the stigma, thus adding to the harm already caused by the rape itself. Another moral concern is the effect of public identification upon victims’ willingness to report actual rape. Victims who would not only have to endure a public trial but also receive media publicity are discouraged from reporting the fact that they had been raped. For these reasons nearly all news organizations have policies against identifying victims without their consent (Overholser, 1989).

A few organizations, however, always identify. They usually make two arguments in favor of doing so. First, they believe that reporting victims’ names will help overcome the social stigma (Sanders, 1980). Such thinking is seriously flawed, however, because there are better ways of fighting the stigma (i.e., reporting on the crime of rape and using names of only those victims who give consent). Also, to report victims’ names for that reason is to use individuals as mere means to others’ ends, which violates one of the basic moral rules. Second, organizations that identify rape victims sometimes argue that out of fairness reporters should reveal the accuser/victim if the accused/perpetrator is revealed. That thinking too is flawed because there is a good reason for identifying the accused that does not apply to the accuser: People need to know about arrests so as to keep watch on police.

For all these reasons, I conclude that rape victims should not be identified in news reports without their consent. Sufficient numbers of them will consent, and reporting on those who do will gradually erode the stigma.

**Adult Relatives of the Prominent**

_We should report on them only because of the significance of what they do, not because of their family ties._

Relatives of the prominent are often treated differently from the rest of us. Why? One argument is that all members of a close family derive social benefits precisely because of a prominent relative. Therefore, they should also bear the burdens of prominence. That argument rests on some theory of just allocation of benefits and burdens. What it does not consider is the damaging effect of publicity on the prominent person who had no control over the conduct of the relative. The President, for example, should neither be harmed by nor benefit from whatever his “long-lost brother” did or does.

Although it is not important that the public be told about relatives, they are nevertheless of interest to the public. Is that adequate justification for making the families public against their will? Arguably not. If they have not sought prominence, and if they wish to be let alone, they should be. Like other citizens, they should be reported on because of the significance of what they do, not because of family ties to the prominent. If they want to remain behind the scenes, they should be allowed to do so.

There is a circumstance, however, in which relatives of the prominent give up much of their right to privacy. For example, some years ago, Sena-
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itor Ted Kennedy, a candidate for reelection, had made every effort to use his wife Joan as a major political asset. She was shown in the campaign as a devoted wife, loving mother, and constant companion, a person much to be admired. During the campaign, however, she had a traffic accident, apparently while under the influence, and smashed a car or two. The wreck, ordinarily not newsworthy, was reported by Roger Mudd on CBS News. Mudd (speaking to a class at Washington and Lee University) reasoned that because she had been shown as an asset to her husband, she was newsworthy when she became a liability, and that justified broadcast of news about a rather unspectacular traffic accident. Because the Senator had tried to persuade people to vote for him because of her, he made her a public figure. That changes the applicable guidelines.

The reader might well refine and extend this list. I present it merely as a sample designed to show that it is possible to state some defensible guidelines that can help journalists decide when to invade (and when not to invade) the privacy of people under different circumstances. Most journalists have norms, but they are rarely articulated. They should be stated so that journalists may more effectively examine and evaluate their own norms.

Summary and Conclusion

One who possesses privacy possesses control over the entrance of others into his or her circles of intimacy. The possession of privacy is of utmost importance to individuals and societies for psychological reasons (need for individual identity and autonomy) and for political reasons (to curtail the power of the state). But morally speaking, the right to privacy must be limited by recognition of the need of others to know about individuals. Thus, in reporting on individuals journalists should temper invasions of privacy in particular cases by applying the test of the public's real need to know.

Notes

2. The link between privacy and the liberal ideal is explored also in Fuller (1969) and Polanyi (1951).

References


Overholser, G. (1989, November). We should not have to keep hiding rape. The Bulletin of the American Society of Newspaper Editors, p. 32.


