

## **Should people in the public eye have a right to privacy?**

Whenever it decides that individuals should have certain rights, protected by law, society engages in a collective act that simultaneously limits and protects the autonomy of its members. We restrain ourselves, by undertaking to refrain from actions that violate the rights of others. In exchange, we gain protection from external interference in our own lives. But this social compact cannot endure if certain rights are only made available to certain people. Just as freedom of expression is most important in relation to views we might like to silence, so any right to privacy must protect those whose lives inspire the greatest public fascination. A right to privacy, if denied to those in the public eye, is as meaningless as a right to free speech extended only to the uncontroversial.

The basic case for a right to privacy rests on straightforward grounds of dignity and autonomy. Simply put, the ability to divide one's activities between the public and the private is part and parcel of being master of one's own destiny. If freedom of worship protects individuals and communities from being forced to follow their consciences in the shadows, then the right to privacy protects them from being obliged to act in the spotlight. This is crucially important. The constant threat that private acts and personal conversations may subsequently be broadcast will, in many cases, have the same practical effect as outright prohibition of those actions and conversations. Even if we have 'nothing to hide' (a privilege, in reality, afforded only to the unbelievably virtuous or irretrievably dull), each of us has a legitimate claim to keep separate the various spheres of our lives. Accordingly, if our private thoughts and deeds are, without our consent,

disseminated by reporters with long lenses and hidden microphones, we have a claim to protection from the law.

These considerations of dignity and autonomy will, naturally, weigh most heavily in the context of the lives of those 'in the public eye'. They are, after all, those whose privacy is under greatest threat. Why, then, might they be the very people we render incapable of claiming a right to privacy? It is glaringly insufficient to say that those who 'court' the media, perhaps through selective and carefully choreographed insights into their domestic existences, thus forfeit the right to cry foul when the press ventures unbidden into other aspects of their lives. If burglars and murderers may still claim the law's protection for their own property and physical safety, it seems inconsistent - not to mention petty and cruel - to suggest that a model should not be able to assert her privacy, when seeking treatment for an eating disorder, merely because she previously paraded her children for photoshoots.

The real objection to privacy rights for public figures rests, instead, on the contention that such rights will obstruct legitimate public scrutiny. But this concern can better be addressed by delimiting what behaviour is legitimately private, than by a blanket denial of a right to privacy. Such a right, for example, should not prevent the reporting of criminal activities, precisely because such activities are not really private at all. Even purportedly 'victimless' crimes pit the individual against the self-preservatory ordinances of society as a whole, thus making the planning or commission of a crime an inherently public act. Similar criteria can be used in the context of, say, a politician's visit to a

prostitute. Assuming that no law has been broken, the starting point should be that he is entitled to his privacy. Of course, some other aspect of the matter (say, that the woman's services are a gift from a controversial industrialist) may place the act legitimately in the public realm. Editors who, wishing to print the whole lurid tale, complain that it is unreasonable to require them to produce some evidence of this public aspect, reveal a certain lack of confidence in the nobility of their profession. Or perhaps they merely wish to sell more newspapers.

Of course, determining what kinds of activities should fall outside the scope of legitimate privacy, by reason of their relevance (and not merely their interest) to the broader public, may not always be straightforward. Two central criteria should guide the process. First, the public importance (and not merely prominence) of the person in question. Famous people who hold no position of public trust or authority should have a right to privacy for all but criminal actions, because the mere satisfaction of public prurience cannot outweigh their claims to a private life. For politicians and other office-holders, the public importance attached to their character will justify rather more intrusion. But this cannot give the press *carte blanche*. So, secondly, the act as well as the actor must be of public importance. In considering this criterion, we might contemplate how much we feel entitled to know about more quotidian figures of trust and authority (such as our doctors, lawyers, and accountants). This would suggest that, for example, accepting bribes is of public relevance, while engaging in an extra-marital affair is not. There will be borderline cases, such as drug addiction. Within boundaries set by Parliament, such cases should be

settled by expert and impartial judges (however much this prospect may upset the *Daily Mail*).

Privacy laws undeniably limit freedom of expression. So, in other ways, do the laws on libel, or incitement to racial hatred. The question is not whether a free press is generally a good thing (it is), but whether private affairs with no public relevance ought, like damaging falsehoods and inflammatory racism, to be excluded from public discourse. By accepting that the dignity and autonomy of some may circumscribe what the majority can see and hear, society engages in the fundamental balancing of self-protection and self-limitation that is common to all rights. And by refusing to deny that the rich and famous also have a right to privacy, the mundane majority affirms that rights are only truly meaningful when their scope encompasses all those in greatest need of their protection.