

PHIL

Privacy, Judgment, & Semantic Legislation

PHIL 102

Ethics, Politics, & Law

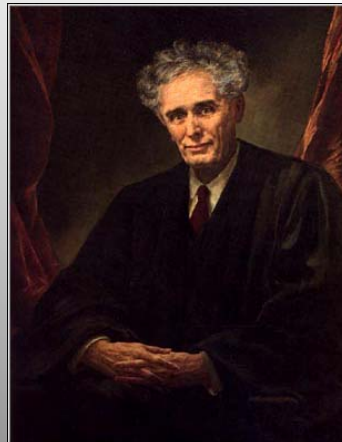
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Right to Be Let Alone

- Louis Brandeis
- 1890 article
- *Olmstead v. U.S.* (1928)
- Nobody wants to be left completely alone
- Most comprehensive
- Most valued by civilized men?
- Must have been aware of potential criticisms
- Contexts for being left alone



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Semantic Legislation

- H • **Quine**
- I • **Parent**
- L • **Linguistic change**
- 1 • **Empirically unrealistic**
- 1 • **Begs questions**
- 0 • **My avoidance**
- 0 • **Do I succeed?**

Defining privacy requires a familiarity with its ordinary usage, of course, but this is not enough since our common ways of talking and using language are riddled with inconsistencies, ambiguities, and paradoxes. What we need is a definition which is by and large consistent with ordinary language, so that capable speakers of English will not be genuinely surprised that the term “privacy” should be defined in this way, but which also enables us to talk consistently, clearly, and precisely about the family of concepts to which privacy belongs.

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Parent's Definition

- H • **Basic definition**
- I • **Information/knowledge**
- I • **Personal information**
- L • **Accommodating eccentric concerns**
- 1 • **It's the snooping, not the information**
- 1 • **Necessary and sufficient conditions**
- 0 • **Documented fact?**

In contemporary America facts about a person's sexual preferences, drinking or drug habits, income, the state of his or her marriage and health belong to the class of personal information. Ten years from now some of these facts may be a part of everyday conversation; if so their disclosure would not diminish individual privacy. [P]ersonal information . . . [is] a function of existing cultural norms and social practices.

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[We must] accommodate a particular and unusual class of cases of the following sort. Most of us don't care if our height, say, is widely known. But there are a few persons who are extremely sensitive about their height (or weight or voice pitch). They might take extreme measures to ensure that other people do not find it out. For such individuals height is a very personal matter. Were someone to find it out by ingenious snooping we should not hesitate to talk about an invasion of privacy.

Privacy is the condition of not having undocumented personal knowledge of one possessed by others. A person's privacy is diminished exactly to the degree that others possess this kind of knowledge about him. . . . [P]ersonal information . . . [should] be understood to consist of facts about a person which most individuals in a given society do not want widely known about themselves.

A's privacy is

violated by B iff:

- B possesses personal knowledge (or information) about A (without A's consent).
- The personal knowledge about A is undocumented.

Counter-Examples

- **Failed attempt to video my office**
- **Overbearing mentor**
- **Sexuality and nudity**
 - Inness
 - DeCew

Consider a man who knows his wife's body very well but is now divorced from her and spying on her as she takes a bath. It is difficult to deny that her privacy is being invaded.

[W]hen a peeping Tom looks in a person's window for the second time, it is conceivable that he might acquire absolutely no new information about the victim. Despite this failure, the peeping Tom clearly violates the victim's privacy with the second, as well as the first, inspection. When he is charged with the second violation, he cannot escape with the explanation, "I've seen it all before!"

Information Models

- Problems with Parent's very specific definition?
- Consensus in the literature
- Cases where information is central
- Cases where it is tangential
- Cases where it is absent



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Information & Judgment

- Examples
 - Medical records
 - Finances
 - Drugs and alcohol
 - Personal relationships
 - Privacy of home
 - Creative endeavors
- Is information central?
- Judgment of others
- Many of my counter-examples apply to my theory



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