

HOW TO BE ALONE

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FOR KATHY CHTKOVICH

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way of Alzheimer's, my father wasn't much deader now than he'd been two hours or two weeks or two months ago. We'd simply lost the last of the parts out of which we could fashion a living whole. There would be no new memories of him. The only stories we could tell now were the ones we already had.

[2001]

IMPERIAL BEDROOM

PRIVACY, privacy, the new American obsession: espoused as the most fundamental of rights, marketed as the most desirable of commodities, and pronounced dead twice a week.

Even before Linda Tripp pressed the "Record" button on her answering machine, commentators were warning us that "privacy is under siege," that "privacy is in a dreadful state," that "privacy as we now know it may not exist in the year 2000." They say that both Big Brother and his little brother, John Q. Public, are shadowing me through networks of computers. They tell me that security cameras no bigger than spiders are watching from every shaded corner, that doofy feminists are monitoring bedroom behavior and water-cooler conversations, that genetic sleuths can decoct my entire being from a droplet of saliva, that voyeurs can retrofit ordinary camcorders with a filter that lets them *see through*

people's clothing. Then comes the flood of dirty suds from the Office of the Independent Counsel, oozing forth through official and commercial channels to saturate the national consciousness. The Monica Lewinsky scandal marks, in the words of the philosopher Thomas Nagel, "the culmination of a disastrous erosion" of privacy; it represents, in the words of the author Wendy Kaminer, "the utter disregard for privacy and individual autonomy that exists in totalitarian regimes." In the person of Kenneth Starr, the "public sphere" has finally overwhelmed—shredded, gored, trampled, invaded, run roughshod over—"the private."

The panic about privacy has all the finger-pointing and paranoia of a good old American scare, but it's missing one vital ingredient: a genuinely alarmed public. Americans care about privacy mainly in the abstract. Sometimes a well-informed community unites to defend itself, as when Net users bombarded the White House with e-mails against the "clipper chip," and sometimes an especially outrageous piece of news provokes a national outcry, as when the Lotus Development Corporation tried to market a CD-ROM containing financial profiles of nearly half the people in the country. By and large, though, even in the face of wholesale infringements like the war on drugs, Americans remain curiously passive. I'm no exception. I read the editorials and try to get excited, but I can't. More often than not, I find myself feeling the opposite of what the privacy mavens want me to. It's happened twice in the last month alone.

On the Saturday morning when the *Times* came carrying the complete text of the Starr report, what I felt as I sat alone in my apartment and tried to eat my breakfast was that my own privacy—not Clinton's, not Lewinsky's—was being violated. I love the distant pageant of public life. I love both

the pageantry and the distance. Now a President was facing impeachment, and as a good citizen I had a duty to stay informed about the evidence, but the evidence here consisted of two people's groping, sucking, and mutual self-deception. What I felt, when this evidence landed beside my toast and coffee, wasn't a pretend revulsion to camouflage a secret interest in the dirt; I wasn't offended by the sex qua sex; I wasn't worrying about a potential future erosion of my own rights; I didn't feel the President's pain in the empathic way he'd once claimed to feel mine; I wasn't repelled by the revelation that public officials do bad things; and, although I'm a registered Democrat, my disgust was of a different order from my partisan disgust at the news that the Giants have blown a fourth-quarter lead. What I felt I felt personally. I was being intruded on.

A couple of days later, I got a call from one of my credit-card providers, asking me to confirm two recent charges at a gas station and one at a hardware store. Queries like this are common nowadays, but this one was my first, and for a moment I felt eerily exposed. At the same time, I was perversely flattered that someone, somewhere, had taken an interest in me and had bothered to phone. Not that the young male operator seemed to care about me personally. He sounded like he was reading his lines from a laminated booklet. The strain of working hard at a job he almost certainly didn't enjoy seemed to thicken his tongue. He tried to rush his words out, to speed through them as if in embarrassment or vexation at how nearly worthless they were, but they kept bunching up in his teeth, and he had to stop and extract them with his lips, one by one. It was the computer, he said, the computer that routinely, ah, scans the, you know, the pattern of charges . . . and was there something else he could help me

with tonight? I decided that if this young person wanted to scroll through my charges and ponder the significance of my two fill-ups and my gallon of latex paint, I was fine with it.

So here's the problem. On the Saturday morning the Starr Report came out, my privacy was, in the classic liberal view, absolute. I was alone in my home and unobserved, unbothered by neighbors, unmentioned in the news, and perfectly free, if I chose, to ignore the report and do the pleasantly *al dente* Saturday crossword; yet the report's mere existence so offended my sense of privacy that I could hardly bring myself to touch the thing. Two days later, I was disturbed in my home by a ringing phone, asked to cough up my mother's maiden name, and made aware that the digitized minutiae of my daily life were being scrutinized by strangers; and within five minutes I'd put the entire episode out of my mind. I felt encroached on when I was ostensibly safe, and I felt safe when I was ostensibly encroached on. And I didn't know why.

THE RIGHT to privacy—defined by Louis Brandeis and Samuel Warren, in 1890, as “the right to be let alone”—seems at first glance to be an elemental principle in American life. It's the rallying cry of activists fighting for reproductive rights, against stalkers, for the right to die, against a national health-care database, for stronger data-encryption standards, against paparazzi, for the sanctity of employee e-mail, and against employee drug testing. On closer examination, though, privacy proves to be the Cheshire cat of values: not much substance, but a very winning smile.

Legally, the concept is a mess. Privacy violation is the emotional core of many crimes, from stalking and rape to

Peeping Tommery and trespass, but no criminal statute forbids it in the abstract. Civil law varies from state to state but generally follows a forty-year-old analysis by the legal scholar Dean William Prosser, who dissected the invasion of privacy into four torts: *intrusion* on my solitude, the publishing of *private facts* about me which are not of legitimate public concern, publicity that puts my character in a *false light*, and *appropriation* of my name or likeness without my consent. This is a crumbly set of torts. Intrusion looks a lot like criminal trespass, false light like defamation, and appropriation like theft; and the harm that remains when these extraneous offenses are subtracted is so admirably captured by the phrase “infliction of emotional distress” as to render the tort of privacy invasion all but superfluous. What really undergirds privacy is the classical liberal conception of personal autonomy or liberty. In the last few decades, many judges and scholars have chosen to speak of a “zone of privacy,” rather than a “sphere of liberty,” but this is a shift in emphasis, not in substance: not the making of a new doctrine but the repackaging and remarketing of an old one.

Whatever you're trying to sell, whether it's luxury real estate or Esperanto lessons, it helps to have the smiling word “private” on your side. Last winter, as the owner of a Bank One Platinum Visa Card, I was offered enrollment in a program called PrivacyGuard®, which, according to the literature promoting it, “puts you in the know about the very personal records available to your employer, insurers, credit card companies, and government agencies.” The first three months of PrivacyGuard® were free, so I signed up. What came in the mail then was paperwork: envelopes and request forms for a Credit Record Search and other searches, also a disappointingly undeluxe logbook in which to jot down

the search results. I realized immediately that I didn't care enough about, say, my driving records to wait a month to get them; it was only when I called PrivacyGuard® to cancel my membership, and was all but begged not to, that I realized that the whole point of this "service" was to harness my time and energy to the task of reducing Bank One Visa's fraud losses.

Even issues that legitimately touch on privacy are rarely concerned with the actual emotional harm of unwanted exposure or intrusion. A proposed national Genetic Privacy Act, for example, is premised on the idea that my DNA reveals more about my identity and future health than other medical data do. In fact, DNA is as yet no more intimately revealing than a heart murmur, a family history of diabetes, or an inordinate fondness for Buffalo chicken wings. As with any medical records, the potential for abuse of genetic information by employers and insurers is chilling, but this is only tangentially a privacy issue; the primary harm consists of things like job discrimination and higher insurance premiums.

In a similar way, the problem of online security is mainly about nuts and bolts. What American activists call "electronic privacy" their European counterparts call "data protection." Our term is exciting; theirs is accurate. If someone is out to steal your Amex number and expiration date, or if an evil ex-boyfriend is looking for your new address, you need the kind of hard-core secrecy that encryption seeks to guarantee. If you're talking to a friend on the phone, however, you need only a *feeling* of privacy.

The social drama of data protection goes something like this: a hacker or an insurance company or a telemarketer gains access to a sensitive database, public-interest watchdogs

bark loudly, and new firewalls go up. Just as most people are moderately afraid of germs but leave virology to the Centers for Disease Control, most Americans take a reasonable interest in privacy issues but leave the serious custodial work to experts. Our problem now is that the custodians have started speaking a language of panic and treating privacy not as one of many competing values but as the one value that trumps all others.

The novelist Richard Powers recently declared in a *Times* op-ed piece that privacy is a "vanishing illusion" and that the struggle over the encryption of digital communications is therefore as "great with consequence" as the Cold War. Powers defines "the private" as "that part of life that goes unregistered," and he sees in the digital footprints we leave whenever we charge things the approach of "that moment when each person's every living day will become a Bloomsday, recorded in complete detail and reproducible with a few deft keystrokes." It is scary, of course, to think that the mystery of our identities might be reducible to finite data sequences. That Powers can seriously compare credit-card fraud and intercepted cell-phone calls to thermonuclear incineration, however, speaks mainly to the infectiousness of privacy panic. Where, after all, is it "registered" what Powers or anybody else is thinking, seeing, saying, wishing, planning, dreaming, and feeling ashamed of? A digital *Ulysses* consisting of nothing but a list of its hero's purchases and other recordable transactions might run, at most, to four pages: was there really nothing more to Bloom's day?

When Americans do genuinely sacrifice privacy, moreover, they do so for tangible gains in health or safety or efficiency. Most legalized infringements—HIV notification, airport X-rays, Megan's Law, Breathalyzer roadblocks, the

drug-testing of student athletes, laws protecting fetuses, laws protecting the vegetative, remote monitoring of automobile emissions, county-jail strip searches, even Ken Starr's exposure of presidential corruption—are essentially public health measures. I resent the security cameras in Washington Square, but I appreciate the ones on a subway platform. The risk that someone is abusing my E-ZPass toll records seems to me comfortably low in comparison with my gain in convenience. Ditto the risk that some gossip rag will make me a victim of the First Amendment; with two hundred and seventy million people in the country, any individual's chances of being nationally exposed are next to nil.

The legal scholar Lawrence Lessig has characterized Americans as “bovine” for making calculations like this and for thereby acquiescing in what he calls the “Sovietization” of personal life. The curious thing about privacy, though, is that simply by expecting it we can usually achieve it. One of my neighbors in the apartment building across the street spends a lot of time at her mirror examining her pores, and I can see her doing it, just as she can undoubtedly see me sometimes. But our respective privacies remain intact as long as neither of us *feels* seen. When I send a postcard through the U.S. mail, I'm aware in the abstract that mail handlers may be reading it, may be reading it aloud, may even be laughing at it, but I'm safe from all harm unless, by sheer bad luck, the one handler in the country whom I actually know sees the postcard and slaps his forehead and says, “Oh, jeez, I know this guy.”

OUR PRIVACY panic isn't merely exaggerated. It's founded on a fallacy. Ellen Alderman and Caroline Kennedy, in *The*

Right to Privacy, sum up the conventional wisdom of privacy advocates like this: “There is less privacy than there used to be.” The claim has been made or implied so often, in so many books and editorials and talk-show dens, that Americans, no matter how passive they are in their behavior, now dutifully tell pollsters that they're very much worried about privacy. From almost any historical perspective, however, the claim seems bizarre.

In 1890, an American typically lived in a small town under conditions of near-panoptical surveillance. Not only did his every purchase “register,” but it registered in the eyes and the memory of shopkeepers who knew him, his parents, his wife, and his children. He couldn't so much as walk to the post office without having his movements tracked and analyzed by neighbors. Probably he grew up sleeping in the same bed with his siblings and possibly with his parents, too. Unless he was well off, his transportation—a train, a horse, his own two feet—either was communal or exposed him to the public eye.

In the suburbs and exurbs where the typical American lives today, tiny nuclear families inhabit enormous houses, in which each person has his or her own bedroom and, sometimes, bathroom. Compared even with suburbs in the sixties and seventies, when I was growing up, the contemporary condominium development or gated community offers a striking degree of anonymity. It's no longer the rule that you know your neighbors. Communities increasingly tend to be virtual, the participants either faceless or firmly in control of the face they present. Transportation is largely private: the latest SUVs are the size of living rooms and come with onboard telephones, CD players, and TV screens; behind the tinted windows of one of these high-riding I-see-you-

but-you-can't-see-me mobile PrivacyGuard® units, a person can be wearing pajamas or a licorice bikini, for all anybody knows or cares. Maybe the government intrudes on the family a little more than it did a hundred years ago (social workers look in on the old and the poor, health officials require inoculations, the police inquire about spousal battery), but these intrusions don't begin to make up for the small-town snooping they've replaced.

The "right to be left alone"? Far from disappearing, it's exploding. It's the *essence* of modern American architecture, landscape, transportation, communication, and mainstream political philosophy. The real reason that Americans are apathetic about privacy is so big as to be almost invisible: we're flat-out *drowning* in privacy.

What's threatened, then, isn't the private sphere. It's the public sphere. Much has been made of the discouraging effect that the Starr investigation may have on future aspirants to public office (only zealots and zeros need apply), but that's just half of it. The public world of Washington, because it's public, belongs to everyone. We're all invited to participate with our votes, our patriotism, our campaigning, and our opinions. The collective weight of a population makes possible our faith in the public world as something larger and more enduring and more dignified than any messy individual can be in private. But, just as one sniper in a church tower can keep the streets of an entire town empty, one real gross-out scandal can undermine that faith.

If privacy depends upon an expectation of invisibility, the expectation of *visibility* is what defines a public space. My "sense of privacy" functions to keep the public out of the private *and* to keep the private out of the public. A kind of mental Border collie yelps in distress when I feel that the

line between the two has been breached. This is why the violation of a public space is so similar, as an experience, to the violation of privacy. I walk past a man taking a leak on a sidewalk in broad daylight (delivery-truck drivers can be especially self-righteous in their "Ya gotta go, ya gotta go" philosophy of bladder management), and although the man with the yawning fly is ostensibly the one whose privacy is compromised by the leak, I'm the one who feels the impingement. Flashers and sexual harassers and fellators on the pier and self-explainers on the crosstown bus all similarly assault our sense of the "public" by exposing themselves.

Since really serious exposure in public today is assumed to be synonymous with being seen on television, it would seem to follow that televised space is the premier public space. Many things that people say to me on television, however, would never be tolerated in a genuine public space—in a jury box, for example, or even on a city sidewalk. TV is an enormous, ramified extension of the billion living rooms and bedrooms in which it's consumed. You rarely hear a person on the subway talking loudly about, say, incontinence, but on television it's been happening for years. TV is devoid of shame, and without shame there can be no distinction between public and private. Last winter, an anchorwoman looked me in the eye and, in the tone of a close female relative, referred to a litter of babies in Iowa as "America's seven little darlins'." It was strange enough, twenty-five years ago, to get Dan Rather's reports on Watergate between spots for Geritol and Bayer aspirin, as if Nixon's impending resignation were somehow located in my medicine chest. Now, shelved between ads for Promise margarine and Celebrity Cruises, the news itself is a soiled cocktail dress—TV the bedroom floor and nothing but.

Reticence, meanwhile, has become an obsolete virtue. People now readily name their diseases, rents, antidepressants. Sexual histories get spilled on first dates, Birkenstocks and cutoffs infiltrate the office on casual Fridays, telecommuting puts the boardroom in the bedroom, "softer" modern office design puts the bedroom in the boardroom, salespeople unilaterally address customers by their first name, waiters won't bring me food until I've established a personal relationship with them, voice-mail machinery stresses the "I" in "I'm sorry, but I don't understand what you dialed," and cyberenthusiasts, in a particularly grotesque misnomer, designate as "public forums" pieces of etched silicon with which a forum's unshaved "participant" may communicate while sitting crosslegged in tangled sheets. The networked world as a threat to privacy? It's the ugly spectacle of a privacy triumphant.

A genuine public space is a place where every citizen is welcome to be present and where the purely private is excluded or restricted. One reason that attendance at art museums has soared in recent years is that museums still feel public in this way. After those tangled sheets, how delicious the enforced decorum and the hush, the absence of in-your-face consumerism. How sweet the promenading, the seeing and being seen. Everybody needs a promenade sometimes—a place to go when you want to announce to the world (not the little world of friends and family but the big world, the real world) that you have a new suit, or that you're in love, or that you suddenly realize you stand a full inch taller when you don't hunch your shoulders.

Unfortunately, the fully public place is a nearly extinct category. We still have courtrooms and the jury pool, com-

muter trains and bus stations, here and there a small-town Main Street that really is a main street rather than a strip mall, certain coffee bars, and certain city sidewalks. Otherwise, for American adults, the only halfway public space is the world of work. Here, especially in the upper echelons of business, codes of dress and behavior are routinely enforced, personal disclosures are penalized, and formality is still the rule. But these rituals extend only to the employees of the firm, and even they, when they become old, disabled, obsolete, or outsourceable, are liable to be expelled and thereby relegated to the tangled sheets.

The last big, steep-walled bastion of public life in America is Washington, D.C. Hence the particular violation I felt when the Starr Report crashed in. Hence the feeling of being intruded on. It was privacy invasion, all right: private life brutally invading the most public of public spaces. I don't want to see sex on the news from Washington. There's sex everywhere else I look—on sitcoms, on the Web, on dust jackets, in car ads, on the billboards at Times Square. Can't there be one thing in the national landscape that isn't about the bedroom? We all know there's sex in the cloakrooms of power, sex behind the pomp and circumstance, sex beneath the robes of justice; but can't we act like grownups and pretend otherwise? Pretend not that "no one is looking" but that *everyone* is looking?

For two decades now, business leaders and politicians across much of the political spectrum, both Gingrich Republicans and Clinton Democrats, have extolled the virtues of privatizing public institutions. But what better word can there be for Lewinskygate and the ensuing irruption of disclosures (the infidelities of Helen Chenoweth, of Dan

Burton, of Henry Hyde) than "privatization"? Anyone who wondered what a privatized presidency might look like may now, courtesy of Mr. Starr, behold one.

IN DENIS JOHNSON'S SHORT STORY "Beverly Home," the young narrator spends his days working at a nursing home for the hopelessly disabled, where there is a particularly unfortunate patient whom no one visits:

A perpetual spasm forced him to perch sideways on his wheelchair and peer down along his nose at his knotted fingers. This condition had descended on him suddenly. He got no visitors. His wife was divorcing him. He was only thirty-three, I believe he said, but it was hard to guess what he told about himself because he really couldn't talk anymore, beyond clamping his lips repeatedly around his protruding tongue while groaning.

No more pretending for him! He was completely and openly a mess. Meanwhile the rest of us go on trying to fool each other.

In a coast-to-coast, shag-carpeted imperial bedroom, we could all just be messes and save ourselves the trouble of pretending. But who wants to live in a pajama-party world? Privacy loses its value unless there's something it can be defined against. "Meanwhile the rest of us go on trying to fool each other"—and a good thing, too. The need to put on a public face is as basic as the need for the privacy in which to take it off. We need both a home that's not like a public space and a public space that's not like home.

Walking up Third Avenue on a Saturday night, I feel

betwixt. All around me, attractive young people are hunched over their StarTacs and Nokias with preoccupied expressions, as if probing a sore tooth, or adjusting a hearing aid, or squeezing a pulled muscle; personal technology has begun to look like a personal handicap. All I really want from a sidewalk is that people see me and let themselves be seen, but even this modest ideal is thwarted by cell-phone users and their unwelcome privacy. They say things like "Should we have couscous with that?" and "I'm on my way to Blockbuster." They aren't breaking any law by broadcasting these breakfast-nook conversations. There's no PublicityGuard that I can buy, no expensive preserve of public life to which I can flee. Seclusion, whether in a suite at the Plaza or in a cabin in the Catskills, is comparatively effortless to achieve. Privacy is protected as both commodity and right; public forums are protected as neither. Like old-growth forests, they're few and irreplaceable and should be held in trust by everyone. The work of maintaining them gets only harder as the private sector grows ever more demanding, distracting, and disheartening. Who has the time and energy to stand up for the public sphere? What rhetoric can possibly compete with the American love of "privacy"?

When I return to my apartment after dark, I don't immediately turn my lights on. Over the years, it's become a reflexive precaution on my part not to risk spooking exposed neighbors by flooding my living room with light, although the only activity I ever seem to catch them at is watching TV.

My skin-conscious neighbor is home with her husband tonight, and they seem to be dressing for a party. The woman, a vertical strip of whom is visible between the Levelors and the window frame, is wearing a bathrobe and

a barrette and sitting in front of a mirror. The man, slick-haired, wearing suit pants and a white T-shirt, stands by the sofa in the other room and watches television in a posture that I recognize as uncommitted. Finally the woman disappears into the bedroom. The man puts on a white shirt and a necktie and perches sidesaddle on the arm of the sofa, still watching television, more involved with it now. The woman returns wearing a strapless yellow dress and looking like a whole different species of being. Happy the transformation! Happy the distance between private and public! I see a rapid back-and-forth involving jewelry, jackets, and a clutch purse, and then the couple, dressed to the nines, ventures out into the world.

[1998]

WHY BOTHER?

(The *Harper's* Essay)

WY DESPAIR about the American novel began in the winter of 1991, when I fled to Yaddo, the artists' colony in upstate New York, to write the last two chapters of my second book. My wife and I had recently separated, and I was leading a life of self-enforced solitude in New York City, working long days in a small white room, packing up ten years' worth of communal property, and taking nighttime walks on avenues where Russian, Hindi, Korean, and Spanish were spoken in equal measure. Even deep in my Queens neighborhood, however, news could reach me through my TV set and my *Times* subscription. The country was preparing for war ecstatically, with rhetoric supplied by George Bush: "Vital issues of principle are at stake." In Bush's eighty-nine-percent approval rating, as in the near-total absence of public skepticism about the war,