**Orwell and the Value of Privacy**

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“Big Brother is watching you.” One of the most famous quotations from Orwell’s book addresses the issue of privacy, surveillance, and control directly. As we know from Jeremy Bentham and Michel Foucault surveillance need not be constant in order to satisfy its aim of control. The loss of privacy is not a simple matter of constant surveillance, but the threat or possibility of it. The result of the panopticon, the knowledge that one may at any time be subject to surveillance is ultimately self-regulation, which in the final analysis is the most effective, and perhaps the only effective means of control. Surveillance, as Orwell shows, is only one element in developing such control. Surveillance is but one element in the loss of privacy, and that the absence of privacy is the cornerstone of totalitarianism. Thus, privacy as Orwell understands it is an essential component of liberty.

Privacy is a serious concern in both law and politics today. All manner of personal information[[1]](#footnote-1) from health records to search history can be sold often with limited or no consent. Even in cases where the information is available for sale or trade, hackers can break into data bases and access personal information that way. Often, we give up privacy in ways that seem to be considered voluntary. Flying a commercial airline requires giving up all privacy—luggage can be and often is thoroughly searched, machines essentially strip away clothing, and even that is not often enough—full pat downs by security personnel are routine. The notion that such routine searches are necessary in order to fly demonstrate that terms like “voluntary” and “consent” are rather slippery. Other times, privacy is denied by employers, insurers and others with whom we might do business. Again, we may “agree” to these intrusions, but it is not always clear that we can truly choose to keep personal information a secret in these circumstances. The legal fact that such losses of privacy are considered “voluntary” rests on a less than persuasive understanding of voluntary. In essence, if you want to participate in modern life, taking advantage not just of luxuries like air travel and conveniences like the internet but necessities like health care and employment you must be willing to give up your privacy. Sometimes, we do not even know that our privacy has been compromised, which in itself suggests the impossibility of real consent.

Pushing the constraints on consent is the fact that in many cases, the “right to privacy” is limited by whether or not it is reasonable to expect privacy in a given situation As a legal doctrine, if the law determines that there is no reasonable expectation of privacy in a given circumstance, then there may be no right to privacy. To be out in public, it seems, is to cede any right to privacy at all. Thus, we are subject to thorough searches of our bodies and our properties when we board an airplane or attend a large public gathering, signs in public transportation urge us to compromise the privacy of others telling us “if you see something say something”. The prevalence of cameras, stop and frisk policies carried out by police officers, and similar methods of surveillance mean that there can be no expectation of privacy outside the home. Here too there is no real consent because even if one somehow could forego going outside, the reality of this surveillance is that we are often unaware of it.

Even inside the home, technology makes other violations of privacy possible. Internet searches are tracked and the information provide exploited by commercial interests. Cell phones provide the ability to use Global Positioning System (GPS) data and track our location. In some cases, people are willing to turn this information over in exchange for conveniences like coupons or learning the location of the nearest pizzeria. Thus, there may be consent in this relationship, but even so, the decline of privacy may be instrumental in making people more tolerant to its absence. Furthermore, there is the risk that the information may be accessed and used by in unauthorized ways. The protection of “privacy” in commercial relationships depends on the technology company’s security, and there seems to be ample evidence that it is impossible to guarantee security for one’s information. Thus, one’s participation in what are now common commercial transactions also risks a serious exposure of one’s personal information. (Not to mention the very tangible risks of identity theft.)

The relationship of commerce and privacy raises property rights issues. One reason people want this information is that it has value. The question is rarely considered a property rights issue. But information surely can be property, and information that belongs to an individual is as much a property of that individual as anything that individual produces. In the market today, people do not just exchange money for goods and services, they exchange their personal information. Among other things, this allows businesses to more effectively market their products to consumers. Privacy and private are obviously related terms, and the sense of private in private property indicates that as such it is a possession. Though it may be a mistake to make too much of terminology that has evolved over the centuries, the connection is more than coincidental. In many cases, privacy violations turn information that belongs to an individual into something of value to someone else. In other cases, privacy violations, as in the case of a search, also violate property rights. Maintaining privacy requires ownership. Thus, in important ways, privacy is a property, whether the emphasis is this relationship in commerce or in public policy.

Much of the technology that makes all this possible considers maintaining privacy as an afterthought, if at all. When privacy is considered, no one seriously claims to have created anything foolproof. The common “PGP” standard stands for “pretty good privacy.” Technology, new security demands, new business models and even the culture itself seem to have conspired to deprive people of what were once ordinary expectations of privacy. Legislators and policy makers try to keep up, but technological developments are so rapid that the pace of legislation, even at its most efficient, seems like a slow crawl. We are told that the need for security requires us to give up some of our privacy. Business claim to be able to serve customers better with access to our personal information. A similar argument is made for health care records. Much of what happens in government surveillance and in commercial use of personal data seems ad hoc. It is hard to imagine how in such a regime individual privacy really receives vigorous protection.

One piece of evidence that privacy needs defending can be found in a handful of cultural and political phenomena. Many ordinary people seem willing and even eager to give up practically all of their privacy in exchange for the notoriety that may come from “starring” on a reality television program. (While I have never actually seen the program, the fact that one of them is called “Big Brother” is probably relevant.) In politics, the privacy rights of politicians and other public service are routinely sacrificed in the name of something as benign sounding as accountability. Thus, many necessary for effective democratic governance may demand compromises of individual privacy.[[2]](#footnote-2) Government employees often are required to cede some of their privacy in the interests of government accountability. Issues such as pay and other conditions of employment are usually considered private, but in many cases this information is part of the public record for government workers. When considering the government, democrats see secrecy, not privacy as the primary obstacle to accountability. While there can be no doubt that those who are engaged in the public’s business should do so in public, government employees do deserve at least some privacy regarding their employment. Similarly, the extent to which elected officials are entitled to a private life is very much an open question. Half a century ago, the presumption was that elected officials were entitled to privacy. That is not the case today. For now, at least, the privacy of elected official’s young children is somewhat honored, but there is no reason to suspect that will remain the case indefinitely, especially considering that blogs and other internet “reporting” often lack editorial discretion. Thus, there need be no justification that the information exposed is relevant to any reasonable idea of public interest.

Policy regarding privacy seems to be based on the suspicion that only people with something to hide have a reason to be concerned with their privacy. If we have done nothing wrong, nothing shameful, we should not worry about who has access to intimate details of our lives. The implication of this belief is that privacy is not an innate good, that we have no reason to fear exposure if we have nothing to expose. To be sure, included in the basic attitude are notions that all of use might not want certain details of our lives made public. But we are hard pressed to indicate why we feel such discomfort, particularly if some greater good may be at stake. In addition, privacy as such is not held to be universally valuable. Plenty of people seem willing, even enthusiastic about trading their privacy in exchange for celebrity or notoriety. Given that phenomena, it seems likely that many people would be willing to trade their privacy in exchange for security or other goods.

Though privacy is seen as a good thing by most people, our language indicates some ambivalence towards the concept. Exceptions carved out in the law are called “privileges”. At times, for instance in therapeutic relationships, the need for privacy is defended using the language of privilege. Attorneys and clients, counselors and clients, doctors and patients, clergy and parishioner, twelve step programs (not to mention married couples) enjoy a “privilege” of privacy rather than a right. This privilege is not justified on the basis of the value of privacy to the individual but rather on the basis of collective or even public good. That is, how well the individual’s good is served by respecting her privacy is not considered as important as the need for attorneys, counselors, physicians, clergy, and so forth to be able to offer privacy in order to do the job. If a patient cannot expect privacy from her physician, then the physician’s ability to practice medicine is harmed. The implication is that the value of privacy to the patient is less relevant, if not irrelevant all together.

On the other hand, privacy can be “invaded” or “violated”. To invade or violate privacy is to commit an act of violence. These idioms reflect the connection between privacy and physical space. Though the expressions are idioms; they are not figures of speech. There is a literal invasion—police enter premises, often with physical force. Individuals are restrained, sometimes with violence. Words like snooping and search by contrast are metaphors that obscure the reality of the potential for violence. The term violation indicates other ways in which the absence of privacy is a serious matter. As above, here we also see the connection between privacy and property—property is private in both the sense that it is owned by an individual but also in the sense that it should be considered free from inspection or surveillance. As notions of property expand beyond tangible things to ideas and intellectual products (or property) privacy in this sense stretches beyond possessions and physical space to mental space as well. And here too, though the invasion of mental space may seem metaphoric, we can begin to understand how such a serious violation really is.

This is why Orwell’s portrayal of a society where there is no privacy and no expectation of privacy is so important. As a work of fiction (and perhaps a satirical one at that) we should not expect to find a philosophical analysis of the connection between privacy and liberty. As a writer, Orwell was noted for among other things his transparency. We see a vividly imagined consequence of what it would be like to live in such a world. Throughout Orwell’s work, the most important value he defends is that of human dignity that allows for at least the possibility of decency. Liberty and privacy are both necessary conditions for this life, and Oceana is a society where these qualities are missing. Privacy in this account is not simply a component of liberty, or a mere instrumental good, but in addition a good in itself. The value of privacy as articulated by Orwell is valuable in understanding current debates about privacy. Even if we concede that privacy needs to be balance against other goods, determining an appropriate balance requires understanding the value of privacy. Without being able to articulate its value, debates concerning the balance of privacy against other concerns are over before they begin. If we see what has happened with security issues, we see that the mere possibility of a small increase in security can justify further erosion of privacy.

Though much of the concern with privacy in Nineteen Eighty-Four deals with privacy as an instrumental good, the way in which Orwell presents privacy implies that more than simply a means to other essential human goods, privacy is a good in itself. Even if we continue to maintain the thesis that privacy as a good needs to be balanced against other goods, the idea of privacy as a good in itself changes the political calculations in attempting to render such a balance. The fact that policies such as airport searches *guarantee* some loss of privacy should be weighed against the rather remote potential that such procedures may prevent loss of life due to a terrorist attack. Furthermore, the notion of privacy as a good in itself transforms legal debates concerning the dependence of a privacy right on a reasonable expectation of privacy on their head. Perhaps the default condition, even in public, is there is an expectation of privacy. Rather than assume there is no expectation of privacy, its absence must be made explicit.

It may be protested that Orwell’s pessimisms concerning future of totalitarianism may seem unwarranted today. The year 1984 came and went thirty years ago, and Orwell’s novel of the same name no longer seems quite so frightening. With isolated exceptions, totalitarian experiments have collapsed from their own contradictions. Thus, Orwell’s book may seem too pessimistic to have much to say to us. Though the totalitarian nightmare has not come to pass, his views on the use of technology for the purposes of surveillance do not seem far off the mark. Given the extensiveness of surveillance, is liberty really that secure? What Orwell missed though was how so many people would voluntarily, even enthusiastically give up their privacy, and not simply because they believe surveillance makes us safer. One remarkable feature of contemporary culture is how we have made celebrities out of people whose only talent seems to be a willingness to completely give up their privacy. It seems that people simply do not value privacy as much as Orwell. At the very least, it is clear that the need for recognition exists in a powerful tension with the desire for privacy. In the world of Nineteen Eighty-Four, recognition is dangerous—avoiding attention was an important survival strategy. Our world is rather different. Big Brother is watching us and not only do we not mind, we crave the attention.

Orwell’s dystopia did not recognize the individual, but today, we use Orwell’s technology to demand that recognition. The irony is that the demand of recognition seems stronger than the desire for privacy. Thus, in Oceana people had neither recognition nor privacy. But today, Big Brother is watching us and not only do we not mind, we crave the attention. The willingness to voluntarily expose one’s private life poses a challenge to those who would defend privacy. Regardless of the sources of surveillance, Orwell’s book does show us why privacy is essential to human liberty. Most significantly, truth itself, not only its mere apprehension, resides in the privacy of consciousness. Nineteen Eighty-Four details how dangerous the invasion of conscious, the inner citadel of privacy really is. While we may not experience systematic torture, big data might pose a similar threat. This is because truth resides in the privacy of human consciousness. It is the invasion of privacy at this deepest level that Orwell warned us about. The project proposed here will emphasize Orwell’s concerns with surveillance and privacy, and the right to an inner life free from demands of political orthodoxy.

It should not be surprising that a powerful argument for the value of privacy would be found in literature rather than in conventional political theory. Literature often features an interior monologue that expresses private thoughts. These thoughts are often shameful or embarrassing. Even in Keeping the Aspidistra Flying, lack of privacy is one of things afflicting Gordon Comstock. In part, the defense of privacy depends not on a reasoned argument derived from agreed upon premises, as one might expect in conventional political theory. Rather, it depends in part on realizing that the violation of privacy gives us a queasy sensation. Orwell’s book provides that sensation.

**The Politics of the Private**

The need for developing the concept of privacy can be seen in some of the difficulties we find in practice, not all having to do with technology. For instance, we typically consider our vote private, though voting is a public act. Religion and commerce also do not seem to clearly belong to either the public or private sphere (though conscience does.) Both religion and contract though are largely protected from interference, and to the extent that such protection is effective, additional protection accorded to these spheres by asserting a privacy right might seem normally redundant. However, such is not the case in other areas of human activity. Sexuality is perhaps the most obvious example. Even here, however, the campaign for marriage equality seems to be a demand for public recognition of same sex relationships. The current debate concerning marriage involves people who want their sexuality publicly recognized. What belongs where is complicated—some aspects of certain acts are properly public, while the acts themselves are not. To be sure, the idea of what is properly private is a normative issue. (Benn 1971) Furthermore, in practice, public and private are not so easily distinguished.

Despite these ambiguities, the notion of privacy itself remains relatively straightforward. Privacy is the right to choose what parts of the self will be exposed to others. Though we may have good reasons to treat different kinds of information differently—for instance, we may be willing to publicize our religious beliefs but would prefer to maintain privacy regarding our political views—the basic notion of privacy itself remains unchanged. In its simplest form, privacy is about controlling who can access information about me. Information can include words, writings, and images. Different aspects of the subject’s life may be described by different kinds of privacy, and this can help in formulating policy regarding the circumstances where privacy may be compromised. Of course there are complications in this, but a broad and general definition can help deal with social, political, and economic changes to how privacy is challenged. Beyond that, a more expansive understanding of privacy is possible, one that encompasses many other aspects of individual identity. (Allen 2011)

However there is a danger in expanding the concept of privacy too far. Orwell’s work provides an anchor to the concept that resists the temptation to expand it too far. Though privacy is clearly related to freedom and autonomy, and perhaps those concepts are inextricably entangled with one another, they are not the same thing. Privacy is privacy, and that is that. Other invasions of property or even personal space may be inconvenient and even harmful—my neighbor’s dogs constant barking is annoying and diminishes my ability to enjoy my property. But they are not invading or violating my privacy.

The legal concept of privacy is well developed, with a large and growing body of case law. Controversies surrounding privacy are of course political, and legislative bodies have spent a substantial amount of time outlining the legal dimensions of privacy as well. Warren and Brandeis develop a notion of a privacy right in some respects similar to intellectual property. Their seminal article from Harvard Law Review was motivated in large part by the way in which social and technological changes—specifically mass circulation newspapers what we might today consider tabloids—necessitated a new understanding of the threat to privacy and how the law ought to protect it:

The intensity and complexity of life, attendant upon advancing civilization, have rendered necessary some retreat from the world, and man, under the refining influence of culture, has become more sensitive to publicity, so that solitude and privacy have become more essential to the individual; but modern enterprise and invention have, through invasions upon his privacy, subjected him to mental pain and distress, far greater than could be inflicted by mere bodily injury. (Warren and Brandeis, 1890)

The authors were concerned with how laws regarding slander and libel were not up to the task of protecting privacy. Privacy gives the individual the right to decide what parts of his or her life he wants exposed to the public. “These considerations lead to the conclusion that the protection afforded to thoughts, sentiments, and emotions, expressed through the medium of writing or of the arts, so far as it consists in pre- venting publication, is merely an instance of the enforcement of the more general right of the individual to be let alone” (Warren and Brandeis, 1890). This “right to be left alone” forms the basis of much legal doctrine concerning privacy. Absent from the article is any attention to the way government itself might violate or threaten privacy, but if we understand privacy as the right to be left alone then it is not difficult to extend these ideas to being left alone by government, particularly as technology (a central concern for Warren and Brandeis) makes that threat more palpable.

The power of the argument here is that the question regarding why someone might wish to keep some issue private is rendered irrelevant. Privacy is acknowledged as a good, and governments must have reasons for violating privacy. But without further theoretical development, legal decisions seem ad hoc, lagging both the technological and informational developments that threaten privacy as well as the threats violations of privacy are intended to counter. In addition, the exploitation of personal information for profit is itself a relatively new problem, and here legal as well as political doctrine is far behind events. As technology and security needs change ever more rapidly, there is a need for a theoretical foundation for why privacy is valuable. Prior to the twentieth century, surveillance capabilities were not developed enough to really threaten privacy. Mail might be intercepted, but the idea of being watched or listened to was not realistic. We thus need a more vigorous theoretical account of why privacy is an important foundation for liberty.

Consider a commonly used product—Google Street View. To be sure, my front yard is in public view to anyone who drives down my street, but I am not sure I am comfortable with a photograph of that yard available to anyone with an internet connection. I cannot point to any real or even potential harm that may occur because of this other than the loss of privacy itself. I have reasons--maybe I do not want the world to see how bad my grass looks or how messy my carport is. Someone who happens to drive down my street is likely to be less concerned with what my yard looks like than getting where they are going. Furthermore, if someone were to lurk outside my yard, there are possible remedies and interventions I can use to protect my properties. Finally, the amount of effort involved in driving past my house compared to finding it on Google is a relevant distinction. However, these reasons do not really provide an explanation as to why I see difference between people driving down my street seeing my house and a picture of my house available to anyone with an internet connection. I know for a fact I did not consent to the commercial use of the image of my house. In short, what really is missing from much of this is a thorough discussion of the stakes involved in current debates on privacy. Entrepreneurs will continue to develop new products that publicize our lives, challenging our ability to be left alone.

An analysis of privacy as a political good or part of liberty has only really occurred as surveillance technologies threatened it. Ideas such as that one’s papers and effects should be free from unwarranted search were an important part of the practice of liberalism, but privacy as a concept was underdeveloped. Nevertheless, one can infer privacy rights from much of liberalism, especially JS Mill‘s support of divorce rights and his defense of freedom to make what we might call today “lifestyle choices,” and even John Locke’s argument for the inviolability of conscience, as a specific area of concern, in the canon of political theory. This begins to change as the appearance of technologies of surveillance brought about the possibility that privacy could be violated in systematic ways, and systematic violations of privacy are an important tool in coercion. Historically, it has been a concern of political theory to determine which activities were proper to the public sphere and which should remain private. Many activities that occur in the private sphere, especially economic activities, have been considered a legitimate sphere of public regulation. Even that most private of arenas—the individual conscience—can be subject to regulations: “The taking away of God, tho but even in thought, dissolves all.” (Locke 1983 [1689])

The contemporary context, in part driven by technology but also driven by new models of governance and commerce, produces new demands on political theory to more carefully consider why and how privacy deserves protection. Orwell’s work goes a long way to substantiating this claim. Historically, a comprehensive attack on privacy, one that could potentially reach all citizens and not just those who rightly or wrongly had had their presumption of innocence revoked required the kind of technology that only became available in the twentieth century and continues to be refined to this day. Urbanization in its way may also contribute to the development of an idea of privacy, with people living in conditions where they are always visible to others.[[3]](#footnote-3) Of course small rural communities tend to be places where it is impossible to keep a secret. Furthermore, notions of an interior life, a conscious and a subconscious described a place that could be private. Given that new technology threatens privacy in unprecedented ways, it seems political theory ought to try to analyze the concept and work out its value. Doing so may enrich the political conversation, and perhaps may give us a reason to pause in the acceptance of technology that makes information about us available to the public.

**The critique of privacy**

Orwell’s concern with privacy would not be very interesting for political science or political theory if it were merely an element of Orwell’s critique of totalitarianism. Though there may be reasons to remain vigilant about the threat it still poses, the real value of Orwell today is how he reveals parallels between how totalitarianism functions and trends present in our own world. The fact is that the value of privacy is far from self-evident. The difficulty lies in trying to explain exactly how a violation of privacy is in and of itself harmful. The fact is that in many cases, the violation of policy results in no harm—especially in cases where the person whose privacy was violated is unaware of the violation. Nevertheless, most people would find such a violation egregious. That suggests that the harm is in fact the violation of privacy itself, not from any measurable effects of that violation. Even when this is recognized, the value of privacy is difficult to articulate. In part, few are privacy absolutists. While we may never want to give up our autonomy to another, or subject ourselves to another’s will, we are usually willing to share important parts of interior lives with others we care about.

Historically, political theory has held the “public” in higher regard than “the private,” a tradition that dates at least from the time of Plato and remains a prominent feature of twenty-first century political thought. By itself this is not all that remarkable; after all, politics is a public activity, and much, if not most of what concerns political scientists and political theorists occurs in the public sphere, or at least is concerned with public things. To be sure, political psychology and bio-politics seek to understand the inner, that is to say, private workings of political actors. Even so, the main traditions in political theory either do not consider the private sphere as significant or hold it in low esteem. Privacy depends on the existence of a private sphere, and there is a tradition in political theory that seeks to eliminate the private sphere altogether.[[4]](#footnote-4) Plato’s guardians had no property, and no privacy. Privacy is obviously etymologically related to private, and there are important conceptual relationships that are politically significant. For one, privacy depends on there being a private sphere. In more contemporary political theory, the communitarian turn resulted in criticism of how the public sphere was no longer the location of important activity. In Aristotle, Rousseau, Tocqueville, Dewey, Arendt among others they found a critique of “liberal individualism” and the harm the prevalence such an attitude had on politics, especially democratic politics. Communitarians did not shy away from the idea that democracy could be at odds with individual liberty found in Mill and other liberal critics of democracy. Indeed, they sought to argue why the democratic community was the location of “true” democratic activity, necessarily for the realization of human potential. This provides some explanation why the concept of privacy remains undeveloped—it simply was not considered part of the subject matter of political theory. The private sphere had come to either be ignored or just another location where individuals would pursue their private interests. The Greek origins of much of the tradition of political theory may itself be a problem. For the Greeks, the private realm was for slaves and women, people who were forbidden from participating in public business. (Weinstein 1971) The modern communitarian follows from this tradition, arguing that participation in public life is an important antidote to modern social fragmentation. At the very least, the communitarian critique, combined with the basic desire for recognition serve to highlight that most political rhetoric that asserts the value of the private sphere is still really about what goes on in public. The truly private sphere remains invisible, and to be condemned to exist solely in that sphere is at best problematic.

Of course, the communitarian movement did not necessarily seek the expansion of state power as an antidote to the decline of the public sphere. Rather, as evidenced by the name of the movement itself, it sought to enhance the power of the community, a sort of nebulous and benevolent “neighborhood association” neither government agency nor private association. Communitarians tend to insist that liberal individualism results in a severe undervaluation of the public good. In this regard, what is offered is a reformulation of privacy. Etzioni makes a distinction between “informational” and “decisional” privacy. This distinction reveals the danger in extending the notion of privacy too far—for Etzioni, the government is entitled to information if it deems it necessary for the public good even though the government is not entitled to make decisions for others. (Etzioni 1999) The problem with this formula is that it does not really provide a reason to preserve privacy as such. “Decisional privacy” really simply means liberty, that is, doing something without interference. Furthermore, it fails to recognize the important link between informational privacy and choice—that is, the extent to which choices are influenced by the fact that information about those choices is itself not protected. Indeed, it is precisely this relationship that is at the heart of much discussion of the value of privacy. If it is not acknowledged, one fundamental reason for privacy that is essential for an accurate calculus that balances the public good with privacy is distorted.

Though policy making that results in a compromise of privacy needs to develop a way to value privacy so that the cost of what is given up can be measured against a benefit, one insurmountable problem is the value of privacy is subjective. Some people value their privacy quite highly; some people seem to value it not at all: “Privacy, like alienation, loneliness, ostracism, and isolation, is a condition of being-apart-from-others.” Only one is desirable. (M. A. Weinstein 1971). The distinctions are found in the subjective experience. There is also the problem of calculating the *public* benefit of protecting individual privacy. One interesting issue is whether those who do not value their privacy much (or do not value certain aspects of it) should be prevented from self-exposure of some sort. Here we see an important way in how privacy and freedom are distinct.

Some people find a shield of privacy is always suspect—an opportunity for dishonesty, a hiding of the authentic self. Though privacy is distinct from secrecy, they are related. The notion of secrecy is distinct in that it is akin to hiding something that ought not to be hidden. Secrecy may hide deception. The case for privacy must on some level develop the distinction between privacy and secrecy. In addition to the way in which secrecy may be barrier to forming individual relationships, there is an even more pertinent political problem. While privacy is central to individual liberty, secrecy can be a problem for democracy. Public figures are, we agree, entitled to a degree of privacy, but less than others. Candidates for office may be required to release personal financial information to ensure there is no conflict of interest, and a voting public may demand even more revelations regarding things like family life, health, and academic records. The violation of privacy that motivated Brandeis and Warren to write their seminal article are today part of normal political journalism.

Another wrinkle in all this is the democratization of celebrity. The explosion of “reality television” has presented an opportunity for those who seek fame or notoriety to give up their privacy, frequently spending significant chunks of their lives under the gaze of television cameras. (It is telling that one such popular program is called “Big Brother”.) Social Media provides people an opportunity to expose the minutiae of their lives to any willing voyeur. Given all this, it is no wonder the National Security Agency among others believed that they could engage in such surveillance without much criticism. Nevertheless, what may be happening here might be best described as a desire for recognition. The same modern conditions that threaten privacy also threaten to obscure the self—for instance, by making meaning differentiation of the self from others more difficult. I will suggest below that Orwell demonstrates that a desire for privacy is not incompatible with a desire for recognition.

**Orwell and Liberalism**

Calling Orwell a liberal is not entirely accurate. Much that is central to the liberal tradition, the connection between property, markets, and freedom seems rather foreign to Orwell’s primary concerns. Of course, Orwell considered himself a democratic socialist, and most likely would have strenuously objected to some of the ways his work has been depicted as anti-socialist. However, Orwell also described himself as a Tory, but the Tory elements in his thought were precisely those conservative ideas that are at odds with free market capitalism. Tory anarchists did not produce a systematic political theory or political ideology. Rather, they were largely literary figures, who used satire to criticize modernity and how modernity, progress, threatened individuality, privacy, and liberty. (Wilkin 2013) For Orwell, this is seen quite clearly in Coming Up for Air, in part a reverie for a semi-rural England that was disappearing in as a consequence of progress and market forces. Figures who could be labeled Tory anarchists are literary figures (Jonathan Swift is often considered the first of these figures, Evelyn Waugh another) rather than political theorists. (Wilkin 2013) As such, one finds that the literary works seem to inhabit the contradictions and lacunae of liberal thought. Furthermore, one might be challenged to find Orwell and say JS Mill having much to say to one another. But the anarchist part of that argument reflects ways in which Orwell’s politics were compatible with liberalism, if not strictly speaking liberal. As an anti-authoritarian, it is much easier to see in Orwell what he was protesting against. There really is almost no positive political agenda, other than to live in a world where a decent, dignified life was possible.

In general, it is far easier to understand what Orwell was against than what he was for. By calling Orwell a liberal, I want to suggest that Orwell has much to offer liberalism, a re-orientation that might be especially important given the challenges that continue to confront what might have appeared at one time an emerging liberal consensus. His anti-authoritarianism was not based on a positive account of liberty. But neither authoritarianism nor liberty could be trusted to make people happy, or even give people a life of dignity. To be sure, there is the risk that the liberal label both oversimplifies and overcomplicates Orwell’s political views—Orwell remained a democratic socialist as well as a Tory anarchist. He was not a political theorist or a political philosopher in any sense of the term, though he was more than a journalist. Perhaps the best way to describe Orwell is as a political thinker, as he thought (and wrote) a great deal about politics, drawing inferences that had relevance well beyond the particular events of his day, but always grounded in the political world around him.

Many accounts of Orwell’s politics focus on his anti-communism and consider Homage to Catalonia one of the clearest statements of his political views. This focus traps Orwell in the political debates of the 1930s and 40s. Orwell’s popularity as a writer and intellectual has resulted in appropriating his work to contemporary political debates in ways that do not do justice to what Orwell actually wrote. What is therefore missed is Orwell’s commitment, found in much of his writing, to the idea that a good political system must provide space for an individual to live a dignified, decent, humane life. For instance, in much of his writing, we find an account of poverty that not only addresses problems of hunger and physical deprivation, but also illustrates the myriad ways poverty makes such a life impossible. Seen from this perspective, it becomes possible to read Orwell not just in terms of what he was against—what today we might call totalitarianism—but what he was for. It requires no great interpretative gymnastics to recognize this—one of Orwell’s great virtues as a writer was his unfailing clarity.

Returning to Orwell’s account of poverty in both Down and Out in Paris and London and Keep the Aspidistra Flying we do not find an economic analysis of the plight of the men struggling with poverty. Instead, what we find is poignant account of how in modern times poverty assaults the dignity and self-worth of the individual. To be poor for Orwell was wretched, but in part its wretchedness had to do with the loss of dignity and freedom being poor involved. In Down and Out in Paris and London for instance, he writes about how complicated life is when one has to struggle to simply buy enough food to eat. The point of much of this work is not just that being deprived of basic necessities is unpleasant, but that in poverty, one suffers in a way not all that different from living under totalitarianism. One’s every minute of life is based around trying to satisfy basic needs in order to avoid death, just as one spends every minute under totalitarianism obeying.

Orwell is less concerned with the formal language of rights than the real human need for dignity and self-worth, without which rights have little value. In Coming Up For Air, we see the continued emphasis on the need for individual dignity. In this case, it is less a problem of poverty (though financial security is still a prominent theme in the novel) but rather a problem of the way the commercial and political life of the twentieth century reduces the individual to a part of a machine. In such a world there is no room for individual expression as everything has become standardized:

You know how these streets fester all over the inner-outer suburbs. Always the same. Long, long rows of little semi-detached houses—the numbers in Ellesmere Road run to 212 and ours is 191—as much alike as council houses and generally uglier. The stucco front, the creosoted gate, the privet hedge, the green front door. The Laurels, the Myrtles, the Hawthorns, Mon Abri, Mon Repos, Belle Vue. At perhaps one house in fifty some anti-social type who’ll probably end in the workhouse has painted his front door blue instead of green. (Orwell, Coming Up for Air 1950)

George Bowling in a small way spends a few days resisting this, choosing to explore the town of his childhood. His ensuing adventures show how that past has been erased by commercial forces and the way in which the future would make the kind of eccentric individuality even less likely.

Another key element of Orwell’s political views that are aligned with some flavors of liberalism was his profound opposition to managerialism. Managerialism seen by James Burnham what would emerge regardless of whether communism or capitalism prevailed. (Crick 2007) Nineteen Eighty-Four could be read as a version of managerialism:

The rulers of this new society will be the people who effectively control the means of production: that is, business executives, technicians, bureaucrats and soldiers, lumped together by Burnham under the name “managers”. These people will eliminate the old capitalist class, crush the working class, and so organise society that all power and economic privilege remain in their own hands. (Orwell, James Burnham and the Managerial Revolution 1968)

Not only is it easy to see Oceana here, but we also see elements of Hayek’s Road to Serfdom in this account. However, unlike Hayek, Orwell saw that capitalist structures themselves offered no salvation. In a review of Hayek’s book, Orwell said as much: “[H]e does not see, or will not admit, that a return to ‘free’ competition means for the great mass of people a tyranny probably worse, because more irresponsible, than that of the State” (Orwell, Review of The Road to Serfdom by F.A. Hayek, The Mirror of the Past by K. Zilliacus 1968). Large scale organizations of any kind threatened spontaneous, even romantic freedom Orwell cherished.

**Nineteen Eighty-Four**

Orwell’s dystopian nightmare is an elaborate account in how the loss of privacy entails the loss of human dignity. The connection between privacy and human dignity was made explicit in Nineteen Eighty-Four:

Tragedy, he perceived, belonged to the ancient time, when there was still privacy, love, and friendship, and when members of a family stood by one another without needing to know the reason. His mother’s memory tore at his heart because she had died loving him, when he was too young and selfish to love her in return, and because somehow, he did not remember how, she had sacrificed herself to a conception of loyalty that was private and unalterable. Such things, he saw, could not happen today. Today there was fear, hatred, and pain, but no dignity of emotion, or deep or complex sorrows. (Orwell 1992)

The account here shows privacy as an essential element of what we might consider a truly human life. In this passage, privacy and its violation is not in its essence a political phenomenon, but necessary for personal relationships to thrive. From Winston’s perspective, the absence of privacy was not significant for political reasons. That is, there was no sense in which one could use privacy to engage in subversive activities. Rather, the elimination of privacy was a tool to create a certain kind of being, a being who knew only the emotions of fear, hatred, and pain, which was necessary for Big Brother and the Party to achieve their goal of absolute power.

Nineteen Eighty-Four while not a philosophical treatise on privacy provides a comprehensive account of the concept. (F. Allen 1984) Here we see Orwell build the case that the violation of privacy is in and of itself harmful, not merely that it may result in harm. In Nineteen Eighty-Four, there are real harms—torture and death—that result from violations of privacy. But Orwell’s book presents other ways the absence of privacy is harmful—it is destructive of anything that we would consider a human life. In this regard, Orwell presents flesh and blood to the idea from Benn and others that the right to privacy is part of “respect of persons”. (Benn 1971) The idea of respect for persons is a cornerstone of privacy as a foundational liberal principle. As formulated by Benn, it extends to a principle refraining from harming others. (Allen 2011) To be sure, there is a danger that in making the concept of privacy too elastic that it may be drained of all usefulness. However, it seems a little flexibility is necessary to render privacy as a non-instrumental good.

Technology plays an important role in the invasion of privacy for Orwell. In Nineteen Eighty-Four, George Orwell imagined technology, two-way television, which to us today is unremarkable. In addition, the kind of manpower required for the comprehensive surveillance Orwell describes may be automated by various data mining techniques. Thus, Orwell’s ideas about privacy and its role in freedom add an important element to understanding how current trends in surveillance threaten liberty. Technology by itself does not destroy privacy. Rather, technology serves existing social structures and expectations. In our world, then, the use of technology in this way enjoys widespread support in public opinion. (Rule 2007) Though technological innovation may be unstoppable, there may not be anything inevitable in how it is used. The technology for telescreens of course has been around for more than a decade at least. Today, people even carry the technology around on their phones. Really, the technology itself has been around for substantially longer than that, but broadband internet and cheap webcams make the technology broadly accessible. Nevertheless, though some people have chosen to more or less use webcams much like a telescreen, we are not required to have them. Yet the technology has been used to disrupt our privacy, and for the most party, we welcome the disruption. Orwell gives us a reason to pause and consider what we may be giving up when we give up privacy.

Among those things is morality. In reflecting on a memory of his mother, he saw how her morality was the product of a private world: “He did not suppose, from what he could remember of her, that she had been an unusual woman, still less an intelligent one; and yet she had possessed a kind of nobility, a kind of purity, simply because the standards that she obeyed were private ones. Her feeling were her own, and could not be altered from outside” (Orwell, 1984 1992). This notion of private morality is a bit surprising, since by most accounts, the practice of morality stems not from private reflection about right and wrong but is rather absorbed through education or socialization. The real practice of morality is not imitation. The norms at some point, regardless of their origin, become internalized. The party, however, must break this structure, because the only “morality” is obedience to the party. But like any morality simple obedience is not enough. Thus, unless outward obedience is accompanied by

Smith’s defiant act of writing a diary was an attempt to establish a small zone of privacy, inside the skull. Even if no one would ever read the diary, the act posed a threat to the methods of Big Brother. What becomes clear through all this is that for Orwell, a private realm is essential to maintaining one’s sanity: “The temple of privacy, as the tramp Bozo had told Orwell when he was down and out in London was inside the skull, and the Party had desecrated that temple. By taking away freedom of speech and the possibility of creative socialisation, the space inside the skull so prized by Bozo had become a void and the Party, like nature, abhors a vacuum” (Ingle 2007). The reference in the quotation above is to an episode in Down and Out in Paris and London where Orwell encounters a beggar named Bozo, who does not appear to suffer from a life of severe material deprivation: “‘If you set yourself to it, you can live the same life, rich or poor. You can still keep on with your books and your ideas. You just got to say to yourself, ‘I’m a free man in here’’—he tapped his forehead—‘and you’re all right’” (Orwell, Down and Out in Paris and London 1961). Private space, even if it is private space in the head, provides an opportunity for human well-being. It is unlikely that Orwell was persuaded by the argument. At the very least, the space inside the head was more vulnerable that Bozo seemed to recognize. As Winston observes after he is released: “They can’t get inside you,’ she had said. But they could get inside you” (Orwell, 1984 1992). Much of Orwell’s work, both fiction and non-fiction, deals with the politics of the interior operations of the mind. The subject of Orwell is not so much for freedom of thought, but rather the necessity of thought as a precondition of political freedom and political action. Beyond the cameras and other means of surveillance, Big Brother goes a step further in the elimination of privacy with the notion of “thoughtcrime”. The invasion of conscience implied by thoughtcrime eliminates the last shred of possibility of private life. The thoughtpolice were to enforce this. They were distinguished from the more “ordinary” agents of enforcement such as the helicopters which would peer into people’s windows.

Orwell also shows us privacy has something to do with pleasure. That is, there are many pleasures that require privacy. We see also that the private space may be a location of rebellion. Sexual intercourse is normally considered a private act, but in Nineteen Eighty-Four, it is also an act of resistance. The Party openly discouraged non-reproductive sex, in part by such organizations as “The Junior Anti-Sex League.” Pleasure of course was one reason, but private pleasure was something that would always be outside the Party’s control. Simply doing something “in private” is a form of resistance. “Almost as swiftly as he imagined it, she had torn her clothes off, and when she flung them aside it was with the same magnificent gesture by which a whole civilization seemed to be annihilated” (Orwell, 1984 1992). Julia’s resistance based on pleasure and pursuing fun that succeeds, at least for a time. Julia believes that through outward obedience, she can successfully pursue other pleasures. (There of course is no way to know how long Julia could have lasted in her pursuits of pleasure if she had avoided explicitly political activity.) Orwell makes it clear that even though no one else sees it happen, no one else knows that it happens, it matters all the same. One of the important themes in the book is how the relationship between Smith and Julia begins as a physical one but develops into what we may call a romantic relationship.

In addition to technology, Orwell may yet prove prophetic in some unexpected ways. In Nineteen Eighty-Four, the telescreen was used to not just monitor the conscious, that is to say willing, acts and speech of people, but even facial movements. Winston Smith describes how one had to be expert at controlling movements and facial expressions in order to avoid suspicions or detection as thought criminals. As it turns out, it may not be possible to exercise the control Orwell described. Today, intelligence agencies are developing techniques that use analysis of body language, including “micro expressions” which last less “than 1/25 of a second” to detect lies and other intentions a person may wish to hide. (Economist Jan 24th 2015) The potential of this kind of surveillance, especially when combined with the possibilities of big data analysis means that if thoughtcrime were to exist, its enforcement would not pose much challenge.

Another technique the Party used to eliminate the private sphere were the endless “civic” activities that kept people out in public:

This was the second time in three weeks that he had missed an evening at the Community Center: a rash act, since you could be certain that the number of your attendances at the center were carefully checked. In principle a Party member had no spare time, and was never alone except in bed. It was assumed that when he was not working, eating, or sleeping he would be taking part in some kind of communal recreation; to anything that suggested a taste for solitude, even to go for a walk by yourself, was always slightly dangerous. There was a word for it in Newspeak: *ownlife*, it was called, meaning individualism and eccentricity. (Orwell, 1984 1992)

Civic activity served to keep the individual in public, where the residents of Oceana would be expected to monitor one another, where they were available for indoctrination, and where their individuality was suppressed. Again, the link between private activity, individuality, and liberty is made explicit, and in many ways the way in which eccentrics are persecuted here echoes the passage cited above from Coming up for air.

The question of trust is also central to Orwell’s account of the effectiveness of Big Brother. The absence of privacy may seem to be a result of a lack of trust—that is, we must watch people because they cannot be trusted. But Orwell’s book demonstrates that the causal arrow goes in the other direction: Eliminating privacy from the world eliminates trust. Trust requires relationships that develop over time. Smith’s affair with Julia does in fact develop this way, but constant surveillance creates substantial obstacles. In a different context, one no long had friends, one had comrades. Why Big Brother should want to do this is obvious—the absence of trust makes it impossible to organize any opposition to Big Brother. In order to survive, you not only had to assume the Thought Police were watching you, but that anyone would report your opposition to Big Brother. But even beyond that, Orwell demonstrates how trust was related to the kind of political order that could exist. Totalitarianism depended on the absence of trust, conversely, a civic order required trust. (Crick 2007)

**Conclusion: The Right to be Forgotten v. The Right to be Left Alone**

The exposure of individual lives through social media and the technology that makes the storage and retrieval of personal data possible and unavoidable (as well as the analysis that uses “big data” statistical techniques to draw inferences from that data) have again stimulated the development of new ways to conceptualize privacy. ‘The right to be forgotten” is one policy response to these developments. The terminology is a response to the difficulty of erasing personal information once it is out in “cyberspace”. The threat of the security state, described so vividly by Orwell, are not the only threats to privacy we face today. Our information is out there, it is not always well protected, and we do not have control of it. Furthermore, we seem to be impotent to do anything if it gets into the wrong hands, or correcting errors in that information that may be included either by mistake or even maliciously.

One current response to threat technology and commerce plays has been to assert a right to be forgotten. The European Union has established that individuals have “the right, under certain conditions, to ask search engines to remove links with personal information about them.” (European Commission 2014) This allows for an individual to have some control over her digital records. The right has been controversial, opposed by business interests as unwarranted regulation, and also as a violation of freedom of speech. (Rosen 2012) At the very least, though, determining the appropriate balance between privacy and free speech requires some notion of the value of privacy. Much has been made of these two arguments against such a right. However, there are other reasons to be reluctant to accept this notion of privacy as a desirable ideal. The solution of “being forgotten” imposes a high cost on the person who wishes to preserve privacy. If privacy is fundamental to human well-being, it would be a mistake to demand something else essential to well-being in exchange. Nineteen Eighty-Four demonstrates that being forgotten, the absence of recognition, is as detrimental to human well-being as the loss of privacy.

A competing account of privacy can be traced to Warren and Brandeis, who developed a theory of privacy that they called a “right to be left alone”. The need for developing a legal conception of privacy was because conditions had changed. In particular, to trends in journalism that substituted gossip for real news. One important feature of Warren and Brandeis’s article is that it focused on potential violations of privacy by private citizens and did not consider the problem of government violations of privacy. Nevertheless, the notion of harm that emerges from the analysis applies as much to government violations of privacy as it does to that of private citizens.

Orwell’s perspective presents an argument for preferring the latter notion of privacy over the former. To be forgotten, erased from memory, was one of the most powerful tools the party had to maintain control. Nineteen Eighty-Four clearly demonstrates that this response does not address the problem. An unperson had all the privacy she wanted, but it was hardly a desirable condition. In the end, everyone and everything is forgotten. Oblivion is the ultimate outcome for everyone except Big Brother. Just as technology threatens privacy, modern mass society threatens our ability to recognize ourselves and be recognized. Few people really want to be forgotten, and the willing exposure of our lives through social media is one example of how people will trade some of their privacy in order to be recognized. To be sure, the right to be forgotten is a piece of rhetoric, a metaphor that should not be taken to imply that someone who exercised this right is risking oblivion or vaporization. But it ignores the tension between a desire for privacy and a desire for recognition. If the price of privacy is to be forgotten, that may be a prohibitive price for most to pay. A privacy right worth having can be exercised with being forgotten. In Nineteen Eighty-Four, oblivion and the absence of privacy were far from opposites. Rather, they were complementary techniques designed to force obedience to big brother.

In Oceana, forgetting things was an essential tool. The destruction of data was facilitated by the use of “memory holes.” Orwell was well aware of the importance of memory as an important aspect of human dignity. Though the idea is common in much of Orwell’s writings, it is prominent in Nineteen Eighty-Four. Among the problems Smith has in his attempt to resist Big Brother is that though he knows there are lies, his memories are vague and he can find no external documentary or objective support for them. Memories that are purely private, that are not shared, cannot be verified. However, no one can control how they are remembered.[[5]](#footnote-5) Memory and privacy reside in the private sphere of the mind. Thus, Orwell shows that in its invasion of that space the party eliminated privacy as it controls memory. Memory and privacy are both essential anchors that keep the individual connected to reality. To be forgotten means one has no objective acknowledgment of existence, as is clear from the way in which people routinely disappeared in Oceana. Recognition and privacy then are not opposites as much as mirrors: Recognition, what is remembered by others is the public face, while what is remembered by the self is private.

The final scenes in Nineteen Eighty-Four present the problem of the absence of recognition. Winston and Julia encounter one another after they have been released. They note that they can do anything they want—the party no longer seems interested in them:

He had seen her; he had even spoken to her. There was no danger in it. He knew it as though instinctively that they now took almost no interest in his doings. He could have arranged to meet her a second time if either of them had wanted to….He knew that there was no danger, nobody would take any interest in them...

There was no telescreen, but there must be hidden microphones; besides, they could be seen. It did not matter. Nothing mattered. (Orwell, 1984 1992)

Not yet vaporized, but an unperson. The condition of being forgotten is shown to be perhaps even worse than losing privacy. Human dignity depends on both privacy and recognition. The solution is not so much to balance them, but rather to understand how an individual who chooses how to present himself in public has both privacy and recognition.

Orwell expresses similar sentiments elsewhere. Dying in public it turns out is not the same thing as having one’s death acknowledged:

In the public wards of a hospital you see horrors that you don’t seem to meet with among people who manage to die in their own homes, as though certain diseases only attacked at the lower income levels. But it is a fact that you would not in any English hospitals see some of the things I saw in the Hôpital X. This business of people just dying like animals, for instance, with nobody standing by, nobody interested, the death not even noticed till the morning—this happened more than once. (Orwell, How the Poor Die 1968)

Here is the simultaneously absence of privacy and recognition. This absence renders the human being “like animals”. The victims, in public, but unrecognized, might as well be unpersons. The condition to be sure is not appropriate for a human being. Such dehumanization, a consequence of powerless, is of the same genus as the dehumanization portrayed in Nineteen Eighty-Four.

Nineteen Eighty-Four is not a book to seek solutions to this, or any other dilemma. However, it does show that oblivion is not only bad in its own right and incompatible with freedom. Oblivion, being forgotten, does not preserve privacy. Orwell shows why this kind of response to the attack on privacy is not satisfactory. From Orwell’s perspective, the “right to be forgotten” or even the more literal translation of the French “right to oblivion” is almost chilling. At the very least, while the two such rights are related, analyzing these rights through the lens of Nineteen Eighty-Four demonstrates that they are not at all the same. Winston Smith uses a small sliver of perceived privacy (a small nook in his apartment where the telescreen cannot see him) not to obliterate himself but rather to try to create a legacy of sorts—his memories are private, but they must be preserved.

The desire for privacy and recognition simultaneously may seem like a case of having your cake and eating it too. It does seem to be the case that recognition is incompatible with total privacy and vice versa. Even if this is the case though, the choice of balance must be among individual choices. To become a celebrity or politician may be a choice where giving up privacy is a known part of the deal. To be the victim of an accident or crime is rather different, though. One might very well have to want to forget that kind of trauma. To be sure, recognition is a public act. But demanding recognition does not entail giving up privacy. Indeed, a “right” to privacy is itself a public recognition of an inviolable zone beyond scrutiny.

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1. Though sometimes referred to as “data” because the information is almost always stored on a computer, the term data I think is misleading and serves to minimize what is happening. Data is the plural of datum, and the notion that data is released emphasizes the possibility that individual information is not necessarily the main concern. However, what may really be happening is that personal information has been made available without consent. [↑](#footnote-ref-1)
2. In Arkansas, state law requires that state employee salary data be made public. An elected official, including school board members, must fill out a detailed statement of financial interest in order to serve. Though there is an obvious rationale for this requirement, the fact that the form required of school board members is the same as that required of the governor seems excessive. [↑](#footnote-ref-2)
3. Urban life provides a kind of convention of respect of privacy driven by necessity, while the stereotypical absence of privacy and anonymity characteristic of small towns (and institutions of higher education) may to an extent challenge this characterization. [↑](#footnote-ref-3)
4. Feminism has done a great deal to expose, challenge, and complicate this hierarchy. Political theory’s relegation of women to the private sphere has been challenged in two ways. The first was to challenge the relegation to the private sphere. This figures not just in theoretical critiques, but in basic demands such as the right to vote. The other challenge is to challenge the hierarchy itself, either by challenging the hierarchical relation or private/public dichotomy itself. It should therefore not be surprising that feminist theory has complicated and enriched understandings of privacy and the stakes involved in its controversies. (Allen 2011) [↑](#footnote-ref-4)
5. However, Orwell’s estate was rather protective of his memory after he died, requesting there be no biography written. (Bowker 2007) [↑](#footnote-ref-5)