Foreword

Reading on Kindles, searching Google, and using cell phones, we leave a data trail of intimate details. Why do we willfully participate in the loss of our privacy? How is it that we rarely register its loss? Do we simply value privacy less? Is it time to ask why privacy matters?

In her essay “Crisis in Education,” Hannah Arendt writes, “Everything that lives, not vegetative life alone, emerges from darkness and, however strong its natural tendency to thrust itself into the light, it nevertheless needs the security of darkness to grow at all.” Privacy guards the dark recesses of the human heart. Amid a sense that privacy is being lost and that we are powerless to resist that loss, we offer Volume 4 of HA: The Journal of the Hannah Arendt Center for Politics and Humanities at Bard College, featuring essays from the Arendt Center’s eighth annual conference, “Why Privacy Matters.”

In his claim that “privacy is not about something to hide. Privacy is about something to lose,” Edward Snowden summarizes much of the fear and worry that people have about living in a time of unparalleled government and corporate surveillance. Privacy, he argues, “is that safe space, that right to act and think and share without prejudgment, without every idea, every utterance being tracked, and recorded, and monitored, and stored, whether by simply your peers in a small village a thousand years ago, or whether it is today, as you engage in the normal activities that follow us around, that surround us every day.” Snowden’s is an aggressive defense of private life.

Robert Litt, the lawyer prosecuting Snowden, disagrees. He argues that privacy needs to be seen in relation to security. Privacy, he writes, “has never been an absolute. And the difficult question comes when you try to figure out how much—what can you do to achieve other social goals that are also important? … I think the challenge is, how can you best protect both privacy and security at the same time?”

Uday Mehta asks what might privacy look like, if we did not think of privacy as a right, to be balanced against security. Turning to Gandhi, he suggests that Gandhi “valued a particular form of being left alone.” Gandhi valued “developing a relationship to the self.” But Mehta writes that Gandhi would not recognize privacy as a right to be alone. The question for Mehta is, what is privacy as a relationship with oneself, absent a right to be left alone?

In a discussion with Wyatt Mason, Ann Lauterbach offers this meditation of associations with private life: “Solitude … Anonymity … Lonely … Invisibility … Interiority … Autonomy … Independence … Agency … Exile … Sanctuary … Concentration … Focus … Duration … Comprehension … Silence … Patience … Receptivity … Prusuing … Waiting … Listening … Thinking.” She asks, “as do all the essays, what is endangered in a world without privacy?”

Carol Becker adds to Lauterbach’s meditation by asking what happens when “we spend most of our time projecting ourselves into the world instead of developing ourselves?” She asks: “What is dangerous about this identification with the spectacle is that it usurps authentic activity.” For Becker, “The public sphere is no longer a place for collective action but rather a place primarily redesigned to publicize the self, to make the self visible to ourselves and to others.”

Is privacy something that only criminals and deviants care about? That is the question raised by Josh Cohen, who considers the tabloid journalist credo, “privacy is for paedos.” In a world of tell-all celebrity, we have an insatiable need to know everything, “to penetrate and destroy not simply the privacy of a select few but privacy itself.” Cohen finds in psychoanalysis a cultural marker for our “rage against the unknown in myself,” and thus an indicator for our devaluation of privacy.

What happens, then, when the private is made public? Rochelle Gurstein argues that we lose not only our private lives, but also the standards of public life. “The cult of exposure” brings about a “moral coarsening.” As the private is brought to lead, standards of decency are derided and moral judgments seen as prudish. This explains, Gurstein writes, “why the world we inhabit together feels—at least to me—ever more ugly, coarse, and trivial.”

How can we save privacy? Anita Allen argues that governments will need to act paternalistically to protect privacy even when doing so is unpopular. “In an increasing variety of ways, our lives are being emptied of privacy, especially physical and informational privacy.” Liberal government will have to proscribe and regulate data collection, disclosure, publication, and retention in the interest of preventing cumulatively harmful diminutions of the taste for or the expectation of privacy.

Hans Teerds looks to architecture to ask how to imagine buildings in which we might preserve private space. Beginning with Hannah Arendt’s claim in The Human Condition that the “four walls within which people’s private life is lived constitute a shield against the world and specifically against public aspects of the world,” Teerds argues that the architectural “wall” is what mediates between public and private: “The wall mediates between outside and inside: it articulates this moment of distinction.”

Ben Wizner has less confidence in governmental action. Against Wizner, David Brin argues that in a world of omnipresent surveillance, we must abandon the effort to regulate the governments and corporations that watch us; they will do so regardless. Instead, Brin calls for sousveillance: “Surveillance is a French word, meaning to look down at people, from above. A new term, sousveillance, should be a rallying cry for our new era, calling upon citizens to look back at elites, from below.”

When we take technology into our own hands, he argues, we can negotiate with elites from a position of power, to truly limit surveillance. Together, these essays make the all-too-rare effort to explain why privacy matters.

Volume 4 of HA also includes Philippe Nonet’s essay “The Unity of Tragedy and Comedy,” an inquiry into the cult of Dionysus originally presented at the Hannah Arendt Center; a essay by Ron H. Feldman reflecting on the genesis of The Jewish Writings, a collection of essays by Hannah Arendt coedited by Feldman and Jerome Kohn; and some of the favorite Quotes of the Week from the Hannah Arendt Center Blog, by Samantha Hill, Dawn Herrera-Helphand, Roger Berkowitz, and Jennie Han.

—Roger Berkowitz
About the Hannah Arendt Center

The Hannah Arendt Center for Politics and Humanities at Bard College is an expansive home for thinking in the spirit of Hannah Arendt. The Arendt Center’s double mission is first, to sponsor and support the highest quality scholarship on Hannah Arendt and her work, and second, to be an intellectual incubator for engaged humanities thinking at Bard College and beyond, thinking that elevates and deepens the public argument that is the bedrock of our democracy. The Arendt Center cares for and makes available the Hannah Arendt Library, with nearly 5,000 books from Hannah Arendt’s personal library, many with marginalia and notes.

VOLUME 4

Why Privacy Matters

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Ann Lauterbach and Wyatt Mason

Technology Is Destroying Our Inner Lives
Carol Becker

The Privacy of the Self in a Culture of Exposure
Josh Cohen

What Do We Lose When We Lose Our Privacy?
Rochelle Garstein

Within or Without the Four Walls: An Architectural Reading of Hannah Arendt’s Reflections on the Private Realm
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Security, Privacy, and the Inner Life
Uday Mehta

Will There Be Privacy in the Transparent Society?
David Brin

The Declining Significance of Home: Privacy “Whilst Quiet” and of No Use to Artists or Anyone
Anita L. Allen

Are There Limits on Government Surveillance?
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A few years ago I came across a quotation from Scott McNealy, CEO of Sun Microsystems. What McNealy said was utterly simple and yet truly shocking. Responding to worries that the connected nature of the Internet led to violations of privacy, he said: “You have no privacy. Get over it.”

McNealy’s quotation raised two thoughts: First, it struck me that he might actually be right about the first part: We have no privacy. The more you read about the power of technologies of surveillance used by governments and corporations in our world today, the more it becomes increasingly clear that what we traditionally mean by privacy—the right to be unobserved, the right to live free from corporate and government surveillance, the right to read and act in our homes without being observed—these rights are increasingly attenuated. On a factual level, we are observed, counted, profiled, and accounted for with a specificity and detail hardly conceivable just decades ago. Our e-mails are hackable. Our medical records are available. Our campaign gifts, shopping tendencies, and reading histories are knowable. If we have not yet lost our privacy, we are certainly in danger of losing it.

It is also true, however, that the loss of certain privacy rights doesn’t mean that we have no privacy. There are ways in which we have more privacy today than ever before. If you think about the number of people who live in single-family dwellings in the United States compared to people who used to live in multifamily rooms, and who still do in many places in the world, there’s much more privacy today than ever before. Our entire architectural system built around private family dwellings, as Hans Teerds writes in this volume, is designed to keep us out of the public and protect us in private. It is a crime for the government to read our mail. And while e-mail is not accorded the same level of protection as letters sent by post, our communications system is still built on the expectation that our correspondence is private. In important ways, we have still a lot of privacy.

And yet, increasingly, privacy is under attack.

It is easy to blame technology for the threat to privacy. But technology is not the culprit. Technology can make us visible or it can help us hide. The fact that technology is now being employed to connect us and know us in ways that might violate traditional ideas of privacy is a result of its usefulness in fulfilling real human needs for convenience, safety, and democracy. Technology excels at making information useful so that we experience palpably what we can gain by sharing information about ourselves that previously seemed private. The result is that again and again we humans choose the benefits of transparency over the stated desire for privacy.

Take for example the potential of what my friend Ben Slivka calls “Dr. Cloud.” In the near future, we will each of us wear sensors in our Fitbits and Apple watches, in our clothes, and even such sensors implanted in our skin and in our bloodstream. These sensors will constantly update to Dr. Cloud our heart rate, our stress levels, and certain chemical compositions. And Dr. Cloud might send us a text message saying, “Take this medicine, take a rest, drink some water.” And then of course it’s just a short step from such helpful reminders to a message from Dr. Cloud saying: “I’ve released penicillin or insulin into your bloodstream based on your health readings.” As busy as we are, we will set Dr. Cloud on Auto Pay, just as I do my electric bill. For most of us, such a convenient and helpful doctor, on call 24 hours a day wherever we are, is someone we would welcome. Indeed, many of us deeply desire Dr. Cloud. But the privacy implications of Dr. Cloud are enormous.

Which brings me to the second part of McNealy’s statement: “Get over it.” I have a harder time with that part. I’m not quite ready to get over the loss of privacy. I understand that there are advantages to the networked world, and I have mentioned some. The Internet of things is indeed seductive. Our collective inquiry in this volume, “Why Privacy Matters” is, however, “What is it about privacy that is worth protecting and preserving in the face of the enormous advantages of a networked society, a society that often depends upon our giving up our privacy?”

To say why privacy matters it is first necessary to face up to the magnitude of the problem and admit a simple fact: while many of us desire privacy, we operate daily on the assumption that privacy does not matter. Every day we use websites, fill out forms, and use cell phones, all of which allow us to be tracked, observed, and surveilled in ways that show either our apathy or our resignation concerning our loss of privacy. If we look at our actions—instead of our claims to care about privacy—we see that we regularly choose to trade away privacy. I argue there are at least three reasons why we willfully and willingly give up our privacy.
I. Why We Are Giving Up Our Privacy

First, simply, we devalue privacy because privacy is inconvenient. In their book *The Age of Context*, Robert Scoble and Shel Israel write: “Technology offers a privacy tradeoff. The more technology knows about you, the more benefits you will receive. That can leave you with the chilling sensation that big data is watching you. In the vast majority of cases, we believe the coming benefits are worth the tradeoff.”

What they mean is that, if you have Dr. Cloud—not to mention the new gadget that I’m getting next week, the smart toothbrush that takes pictures of your teeth and sends them to your dentist so that they can call you if you’re getting a cavity, saving you a checkup visit—the privacy tradeoff is pretty convincing. My dentist gets my medical records, which may be vulnerable to hacking, but I don’t have to worry about making an appointment. I’m willing to make that trade.

Everyone who uses Facebook and similar social media chooses to accept the loss of privacy for the convenience of virtual friendship. Facebook’s algorithms profile you and feed you news, updates, and advertisements tailored to your unknown wants. And new ad software uses your phone’s location tracker to know where you are, feed you geographically-convenient advertisements, and track whether an advertisement leads you to visit a physical store. This willingness to give up our personal information and data for the convenience of online services happens every day. All of us are engaged in it. And as a result, we are surveilled, watched, and looked at nearly all the time.

Most of you are probably like me. I worry about my loss of privacy, about being visible, and about the way my data is used to feed me customized information, news, and products. But in the end I choose to give up my privacy in the name of convenience.

The second reason I think we willingly give up our privacy is because privacy is dangerous. Edward Snowden revealed that the National Security Agency’s programs are watching Americans as well as foreigners. And since that time, according to the Pew Research Center, 57 percent of Americans say it is unacceptable for the government to monitor the communications of U.S. citizens. That’s approximately the same percentage as before Snowden released the NSA documents. Even as we have come to learn more about the extent of the NSA’s domestic spying, the number of Americans who object to this invasion of our privacy has stayed static.

Dig into these numbers and we see the weakness of our objections to the invasion of privacy to keep us secure. Sixty-five percent of Americans support monitoring of those particular individuals who use words like *explosives* and *automatic weapons* in their search engine queries, and 67 percent support monitoring those who visit anti-American websites. Even as a majority of Americans want the country to stop spying on us, to stop looking at us, the fact is that when push comes to shove, we actually want the government to continue spying on us and monitoring us, at least most of us want the government to spy on those we think might be dangerous.

The Pew surveys show that about half of Americans view the NSA favorably, compared with 37 percent who have an unfavorable view. And this was shocking to me when I first read it: About six in 10 of those under 30, the younger among us, view the NSA favorably, compared with 40 percent of those 65 and older. The older people among us are more worried about our privacy than the younger, and I think that’s clearly about familiarity with technology.

The generational shift in concern about privacy was expressed by the tabloid journalist, Paul McMullan of the *News of the World*, who told the Leveson Inquiry in England, “Privacy is for paedos.” McMullan was being investigated for hacking the phone records of a murdered British teenager. McMullan defended what he did as good journalism, arguing, “in 21 years of invading people’s privacy I’ve never found anybody doing any good.” By that he meant that the only people who care about privacy are pedophiles and people like them, criminals. If you have nothing to hide, you have nothing to lose. That cliché is the mantra of those who would, say, take away your privacy.

The proper response to that mantra is, “Everybody has something to hide, and thus everyone has something to lose.” And yet, somehow, again, most of us continue to accept journalistic as well as governmental intrusions into the private lives of others. We may grimace when we read *People* magazine and *Gawker*, but we read them. And in most instances, we agree with McMullan: to afford private life protection is to side with privilege over our collective right to know. It is evil. McMullan is a tabloid journalist; he hardly represents mainstream journalistic ethics. But his basic argument—that privacy interferes with the public’s right to know—represents a strong and important view that needs to be taken seriously.

This brings me to the third reason that we will continue to give up our privacy; privacy is generally anti-democratic. Some also argue that privacy interferes with the public’s right to know—represents a strong and important view that needs to be taken seriously.

In all democratic societies today the public is disposed either to resent attempts at privacy, either of mind or body, or to turn
them to ridicule… There is nothing democratic societies dislike so much today as anything which looks like what is called exclusiveness, and all regard for and precautions about privacy are apt to be considered signs of exclusiveness.

To a democrat, the claim, “Look, don’t violate my privacy, I want to be left alone, I don’t want you to know what I do,” is a claim of privilege, one inconsistent with the drive for equality and transparency at the root of democratic citizenship.

The anti-democratic bias of privacy claims was at the fore during a debate connected with the conference “Why Privacy Matters;” cadets from West Point Military Academy debated with Bard College students the resolution, “National security is more important than individual privacy.” The students focused on the classism and racism of arguments for privacy. It is a fact that many people who are poor, who are incarcerated, who live neighborhoods that are under greater surveillance by the police, have much less privacy than those who are wealthier and whiter. In short, the students worried that privacy was a source of privilege inconsistent with a liberal and just democratic politics.

It is also true the men have traditionally had more privacy than women. Perhaps the strongest critique of privacy over the last 50 years has come from the feminist movement. Women have rightly argued that the idea that men control the house and that marital rape is not rape have allowed male privilege to hide behind the shield of private life. The feminist mantra “the private is the public,” insists that assigning women to the private sphere restricts their rights and obfuscates their oppressions. To the extent that women’s association with the private sphere consigns them to second-class status, the claim for privacy supports an inequality that is deeply anti-democratic.

Together, the anti-democratic nature of privacy, the dangerous nature of privacy, and the inconvenient nature of privacy suggest that there is indeed a reason why we are losing our privacy. The danger to privacy does not come from technology; the threat to privacy is deeper than technology, it is a product of our very human needs and democratic desires. Technology merely makes the pursuit of convenience, security, and transparency possible to an extent never before imagined. We are increasingly using technology to improve ourselves, to create better health for ourselves, to teach ourselves more, to monitor what we do. There are apps that beep at you if you go to certain websites that you program so that you concentrate more on your work. Great. But your private life is being invaded at every moment. Technology maximizes the human ability to improve and instruct others, and ourselves, even at the expense of our equally human desire and need for privacy, a place of refuge, a dark place in which we can retreat from the public gaze.

II. What Is Privacy?

Edward Snowden has become the advocate-in-chief for the idea that we must stand up as a society and resist this encroachment, this loss of privacy. The title for the conference, “Why Privacy Matters”, is taken from his comment in a Christmas message on British television in which he said:

A child born today will grow up with no conception of privacy at all. They’ll never know what it means to have a private moment to themselves, an unrecorded, unanalyzed thought. Privacy matters. Privacy is what allows us to determine who we are and who we want to be.

Snowden states that privacy matters. It is important. But why?

If we are to preserve privacy, we need to articulate clearly and powerfully why it is that privacy matters. As I have argued above, there are clearly strong reasons for giving up our privacy. We will continue to lose our privacy unless we understand also equally compelling grounds why it is worth preserving our private worlds even at the expense of convenience, danger, and transparency. In short, we need to investigate the meaning and importance of privacy as a deeply human need.

When one begins to delve into the philosophical, legal, moral, economic, and sociological literature, it quickly becomes obvious that justifications for privacy are confused and contradictory. It is actually exceedingly difficult to find any sustained, philosophical, thoughtful argument for why privacy matters. Privacy is often defended as necessary for autonomy; Charles Fried argues that privacy is what is necessary for intimacy and friendship; Rochelle Gurstein sees privacy as what allows us to hide what we are ashamed of; Edward J. Bloustein insists that privacy is an essential prerequisite for human dignity; Alan Westin, author of the greatest modern treatise on privacy, argues that, “Privacy is the claim of individuals…to determine for themselves when, how, and to what extent information about them is communicated to others”; and Samuel Warren and Louis Brandeis write simply: “Privacy is the Right to be left alone.” None of these definitions of privacy are wrong. But the diversity of definitions and justifications for privacy suggests confusion. What is more, the multiple definitions have the sense of desperation. No one seems to know why privacy really matters.

I want to explore a more persuasive reason for why privacy matters by turning to the last and perhaps only great political thinker who set privacy at the center of her thinking: Hannah Arendt. Arendt writes about privacy in nearly all of her many books and essays. Privacy is part of the core of her thought. Despite this, it is largely overlooked in discussions of Arendt’s work.
I want to try to articulate three arguments concerning what privacy is for Hannah Arendt, and why it matters.

Arendt’s first account of privacy begins with her claim that privacy secures depth. She writes in The Human Condition: “A life spent entirely in public in the presence of others becomes, as we would say, shallow.” Privacy matters, Arendt argues, because privacy preserves our unknown depths. In privacy we have secrets. What do secrets do? They make me different from you. They make me worried about things that I know and no one else knows. They separate me from you. My secret depths create a darkness integral to my self, a core from out of which my self emerges; it is this depth that is crucial to who I am. It is this depth that makes each of us interesting and unique, and defines our humanity. It is also this depth that worries us and makes us uncomfortable.

Depth is dangerous. We all have vices. We all sin. And we all commit crimes, some small, some bigger. It is those sins, vices, and crimes as well as those intimate secrets, prejudices, and weakness that make us both imperfect and interesting. Arendt continues in The Human Condition:

While a public life retains its visibility, it loses the quality of rising into sight from some darker ground, which must remain hidden if it is not to lose its depth in a very real, non-subjective sense. The only efficient way to guarantee the darkness of what needs to be hidden against the light of publicity is private property, a privately owned place to hide it.

Three important arguments about the depth of privacy are harbored within this quotation. The first is that, again, privacy secures a kind of depth, a darkness, that is the non-subjective place where “who we are” is at home. It is a refuge for our exclusiveness and uniqueness as a person.

Historically, the only way we can secure privacy, darkness, depth, is private property. To take this insight seriously is to recognize that the only way to actually protect privacy is to recommit ourselves to the protection of a realm of private property that is inviolate. If we were really serious about securing privacy, we would make it possible to totally ban all data recording devices—censors, cameras, and surveillance—from the household. At some point we may just have to do something like that, in order to secure people their right to privacy.

The overarching point Arendt is making about the human depth that is secured by privacy is that we all have opinions about which we are not proud; we all are born from a place of shame; and we all grow and thrive out of feelings, urges, lusts, rages, and whims that are unfit for public consumption. Private life is the harbor for our private selves, the selves we are ashamed of.

And as much as we at times wish to deny it, those shameful parts of ourselves are essential parts of who we are. Privacy is a space for us to be and live with those parts of ourselves that are embarrassing.

Consider the case of Donald Sterling. He was the owner of a basketball team who was dating a biracial woman significantly younger than he. He made some offensive and racist remarks to her on a private phone call that she recorded. Specifically, he complained that she had taken some minority friends, some black friends, to a basketball game, and had taken a selfie with Magic Johnson. He said that while she could hang out with whomever she wanted in private, he would rather her not be seen publicly with blacks.

This is, of course, deeply offensive. She called Sterling out, saying, “You’re racist.” He said, “I’m not racist. You can bring Magic Johnson over for dinner, you can bring your friends over for dinner, you can sleep with them.” That’s a pretty amazing thing to say to one’s girlfriend, but in any case, what he did ask of his young biracial girlfriend was that she not publicize her relations with famous black people “because some of my friends don’t want to see that.”

Not very nice, but we might ask: Should a private conversation between lovers have been recorded? Wasn’t that a betrayal of an intimacy between two people? Would you like all your private conversations to be recorded? And if all your private conversations were recorded, would you censor yourself? What kind of conversations would you have? What’s more, don’t all people, of all races and sexes and religions, have opinions and thoughts that we speak in the confidence of private life that are publicly shameful?

Beyond the ethics of what Sterling’s girlfriend did is a deeper point about privacy. Arendt reminds us that the depth of human personality is not always pretty and should not be publicly exposed. It is often the case, and history bears this out, that many of our heroes who created the great artistic and moral accomplishments of their times, were full of bile and hate at home. Fighters for equality can be tyrants at home. Arendt’s argument is that privacy guards our all-too-human depths, our secrets, and our prejudices, all of which can exist only in darkness. While these secrets are shameful, they do not disqualify us as persons of integrity and distinction in public. On the contrary, public life may require a private realm in which we can explore and express our shame without fear of public and official scrutiny. The danger Arendt is raising is that the loss of privacy threatens to make us act better, safer, and more public in all our relationships, even in private. And this safety may come at the cost of our humanity and depth.

Along these lines consider Facebook. One of the things I’ve learned over the last seven years that I’ve used Facebook is that the people who are on Facebook expect me to read it; so when an important event happens—they
get married or they have a child—they don’t call me anymore. And if I haven’t read about it on Facebook, I don’t know it. One unintended but very real consequence of Facebook is that I stop actually talking to my Facebook friends. I’ve found that my closest friends are increasingly the friends who are not on Facebook. Why? At least in part because they are the ones who call me and I call them when something happens, and we still talk to each other. And so Facebook is destroying the depth of friendships.

Without real friends, those whom I trust in confidence, friendships are increasingly mediated in forums that are semiprivate but, realistically, very public. As more of our friendships take place in public, there is ever less opportunity to develop the kind of deep friendships that can survive the shock of shameful and embarrassing disagreements. Which is why so few friends today are able to meaningfully challenge and criticize each other. I try to have this conversation with students, and they say, “But Facebook allows me to keep in touch with people all over the world.” True, but how many of them are you talking to meaningfully?

After arguing that privacy nurtures depth, Arendt makes a second argument, about why privacy matters: privacy protects life. She means not biological life, but rather, life in a vital sense—as the drive to acquire, to do things, to take initiative. Often the most personal and private of wants, desires, and needs compels us to work and sacrifice. If we are to maintain our passions and strivings, we need to hold on to a vibrant private life.

This need for a privately meaningful world underlies Arendt’s distinction between the private and public realms and recalls Arendt’s distinction between things that should be shown and things that should be hidden. Some things should be hidden, like our work life, but also things that I own, things that are personal to me, that I want to acquire, whether it’s a car, or a nice rare book, or a first edition of *The Human Condition*, things like that; and the truth is, those are things that I do want to acquire. For Arendt, they need my initiative, and they’re not to be shared. Love is not to be shared. Friendship can be public, but love, not. The sacredness of this privacy was like the sacredness of the hidden, namely birth and death.

Have you noticed how many books these days are about people dying, memoirs of people dying? Death used to be one of the most private of experiences, one that you experienced with your family, maybe one or two friends. Now we have blogs and books sharing people’s deaths, the idea being that death has become a public event, that you could make your life more meaningful by sharing it with two million people. Death no longer is a good death, where you reflect upon and impassioned, you yelled your primal scream. Herrera-Helphand writes of giving birth like a bear, with a bear cub coming out. She tells how her experience was so private, and part of who she was, that she realized that if she had given birth in public, on TV, as some people do today, that the experience of giving birth would have been completely different and less meaningful to her. She writes: “The illusion of sovereignty, this idea that we’re always in control that we cultivate in public, is precious and not easily relinquished. The ambition to maintain it is antithetical to the necessary labor of childbirth.”

To live increasingly in public is to abandon that wild, natural, and uncivilized part of ourselves, our being as a living being, one who is not always so civilized and presentable. Herrera-Helphand argues that in giving birth she came to see the insight of Arendt’s defense of privacy, that there are certain parts of human life that belong hidden, that can only be when they are protected from the public gaze.

Finally, a third defense of privacy that Arendt makes is that privacy enables judgment, namely judgments of taste. Should we be able to make public judgments on questions like: Should there be abortion? Should we have Viagra ads on the TV during baseball games? Ought offensive music and movies have labels? Is there still such a thing as offensive music? Should we have Victoria’s Secret down the street in residential neighborhoods? Arendt insists that we must be able to make public judgments of taste; and that depends upon a meaningful distinction between public and private worlds.

Without the distinction between private and public, there is no possibility of making public judgments. Indeed, all public judgments immediately come to be seen as attempts to impose one’s private taste on society. Arendt addresses this necessity for public judgments of taste in her lectures on Kant’s aesthetic thinking: “The activity of taste decided how this world, independent of its utility and our vital interests in it, is to look and sound, what men will see, and what they will hear in it.”

Rochelle Gurstein writes in her book, *The Repeal of Reticence*, that the loss of privacy brings about the loss of public judgments of taste:

In the twentieth century, the faculties of taste and judgment, along with the sense of the sacred and the shameful, have become utterly vacant. Yet without them, it is now clear that disputes
about the character of our common world can only be trivial, if not altogether meaningless.

Gurstein's point, one she rightly attributes to Arendt, is that privacy doesn't just protect our private lives and depth; it also protects the meaningfulness and substance of the public world.

Gurstein argues that we can no longer have conversations about public judgments of taste because anyone who says, “You know what? We shouldn’t do that,” is immediately called a prude, or a Victorian. And we are unable to have an actual conversation about what is beautiful. If you say, “That’s not art,” you’re considered an elitist. If you say, “living on welfare is irresponsible” or “religion is an illusion,” you’re considered an objective thinker who does not understand the relativity of goodness. And so the result is, we simply stop having conversations about matters of public judgment.

All the important questions of what is good, what is right, and what is beautiful are set off-limits. Instead, ad hominem attacks take the place of conversations about what the public, common world means. In confusing public and private argumentation, we have lost sight of the nonsubjective standards of public judgment.

Jonathan Franzen has a brilliant essay about the confusion of public and private judgments called “The Immortal Bedroom.” Franzen writes,

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, 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.... Reticence, meanwhile, has become an obsolete virtue.

Franzen understands why the violation of a public space is so similar to the experience of the violation of privacy. When someone relieves himself publicly, it is not he, but me and you, who suffer the impingement; he’s invading our privacy. He’s demeaning the fact that in public we should act differently than in private. He’s refusing the idea that there are certain things that we should be reticent about, not speak about. And if you complain about that, you’re a prude. The kind of public judgments that Franzen wants depend upon the meaningful separation of what Arendt calls the public and private realms.

III. Privacy, Uniqueness, and Plurality

I said earlier that the essays in which Arendt talks about privacy are somewhat controversial. Probably the most reviled and essay Hannah Arendt ever wrote was “Reflections on Little Rock,” about the decision of the U. S. Government to forcefully desegregate the schools in Little Rock, Arkansas. No one wants to talk about this essay, they consider it an embarrassment, and yet in this essay Arendt most directly and fundamentally develops the theme of privacy and makes her argument for privacy. As difficult as it is to take “Little Rock” seriously, I want to do precisely that. I want to talk about Arendt’s defense of privacy because I think it shows the real and perhaps insurmountable challenges of defending privacy in the 20th century.

In “Reflections on Little Rock,” Arendt writes: “To force parents to send their children to an integrated school against their will means to deprive them of rights which clearly belong to them in all free societies, the private right over their children and the social right to free association.”

Let me be very clear: Hannah Arendt fundamentally supports the Supreme Court’s striking down of legal segregation. She says it is wrong to have legal segregation, to make it illegal for people to go to integrated schools, to make it legal to have only one-race schools. But, she also says, rejecting unconstitutional and wrong legalized segregation is different from forcing integration.

Arendt’s argument is based on her respect for privacy. If there is anything privacy means, it is about our bodies, our marriages, and our children. Privacy means the right to marry whom you choose, whether that person is of another race, or of the same gender. She says that whom one chooses to marry and live with are fundamental privacy rights, and there is no reason for the government to become involved.

Another fundamental privacy right, one most revered in our society as a place where we live a private life apart from social and political pressures, is our right to raise our children as we see fit. In this essay Arendt says that to forcefully tell people that they have to send their children to a specific kind of school—whether it’s an integrated school, or a school that teaches Western civilization, or one that teaches Christianity, or one that teaches Judaism, or one that teaches atheism—is to force upon them a particular way of educating and raising their children. That, Arendt says, is a basic violation of privacy.

In her essay on Little Rock, Arendt assumes that how one raises one’s children is a private matter. This is a controversial and possibly wrong assumption. It may be the case that in a multiethnic and multicultural democracy, public education serves an essential integrating function. Arendt accepts this argument...
We need a private house for children because children, if they’re exposed to the public, will become shallow. Arendt says that children of famous people have a particular problem because they think they’re always being watched, and they don’t develop, she thinks, the deep personal life that children need. If we are watched, surveilled, scrutinized too much as children, and even to some extent as adults, we are deprived of the necessary darkness needed for a full life. The privacy of the family, with all of its problems—and multiple problems of sexism, racism, and abuse are often justified on privacy grounds—is needed to preserve a private realm separate from the glare of the public.

The reason to defend the private sphere in spite of all its dangers is that the private sphere protects difference, plurality, and uniqueness. As Arendt writes in “Reflections on Little Rock,”

The rules of uniqueness and exclusiveness are, and always will be, in conflict with the standards of society precisely because social discrimination violates the principle of uniqueness, and lacks validity for the conduct, of private life. Thus every mixed marriage constitutes a challenge to society and means that the partners to such a marriage have so far preferred personal happiness to social adjustment that they are willing to bear the burden of discrimination. This is and must remain their private business.

We want people to act without prejudice, we want people to act healthfully, and healthy. We want people to act smart. As Cass R. Sunstein and Richard Thaler write in their book *Nudge*, we want to encourage, to nudge people into acting rationally, in their own best interests and in the interest of society. The problem with efforts to encourage parents to take care of their children, raise tolerant children, prepare their children for an economic future, and socialize their children, is that doing so conflicts with the right and the desire of parents to raise children who are unique; to bring children into the world who reflect the plural and diverse values of families and communities.

At the root of Arendt’s controversial defense of privacy is her argument that imposing social values on particular families and communities violates the principle of plurality that underpins the value of private life. For Arendt, discrimination in families and communities are forms of private and social discrimination that are part of the right of free people to associate with those like themselves. She argues that in private and in society we have the right to discriminate; more strongly, we should choose with whom we want to spend our time and how we should raise our children. It is important to have plural, diverse, and strong views. Uniqueness in private and discrimination in society, Arendt argues, are important and positive attitudes that encourage plurality and meaningful difference. In a pluralistic society, there is no problem with Jews hanging out with Jews, Christians hanging out with Christians, or Muslims hanging out with Muslims.

The situation is fully different in what Arendt calls the public, or political world. In public, in a restaurant on the Strip, on public transit, in airplanes, and in all public or private businesses that are used in commerce and for public functions, discrimination must be absolutely prohibited. Where people interact not as family or as social friends but as public citizens, they must act as full equals absent all discrimination.

For reasons too complicated to discuss here, the power of society in our time is greater than it ever was before, and not many people are left who know the rules of and live a private life. But this provides the body politic with no excuse for forgetting the rights of privacy, for failing to understand that the rights of privacy are grossly violated whenever legislation begins to enforce social discrimination. While the government has no right to interfere with the prejudices and discriminatory practices of society, it has not only the right but also the duty to make sure that these practices are not legally enforced. (Arendt, “Reflections on Little Rock”)

For Arendt—and here she is absolutely right—we should never allow a state or a locality to enforce segregation. Arendt’s additional point, rooted in her defense of privacy as that protection of uniqueness and depth even when they are unpopular, is that the necessary fight against public and legal discrimination should not eliminate private discrimination.

We don’t have to agree with it Arendt about education, which straddles the border between the private, social, and public realms. I think today most of
us would almost certainly say that public education in the United States is the kind of public activity that must be cleansed of racial and religious discrimination. But we should consider Arendt’s argument carefully.

Where will we defend unpopular privacy if not in the right of parents to choose how to raise their children? If we do not defend the rights of parents to raise their children in their personal and unique belief and value systems, what, then, does privacy mean? Meaningful privacy is always in contest with social and normal standards of mass society, standards of progress and conformity. Arendt writes again in “Reflections on Little Rock”:

The danger of conformism in this country—a danger almost as old as the Republic—is that, because of the extraordinary heterogeneity of its population, social conformism tends to become an absolute and a substitute for national homogeneity. In any event, discrimination is as indispensable a social right as equality is a political right. The question is not how to abolish discrimination, but how to keep it confined within the social sphere, where it is legitimate, and prevent its trespassing on the political and the personal sphere, where it is destructive.

In the end, privacy for Arendt is the last bastion of support for the depth of personal difference that will allow for meaningful differences to exist in an increasingly rational and conformist society.

Arendt’s defense of privacy is controversial because she understands that the real reason to defend privacy is because in private we humans do shameful and at times antisocial things, hold unorthodox opinions, and challenge the social and political consensus. In private we express prejudices and discriminate. Arendt’s essay, unsettling as her defense of parental choice in education may be, deserves to be read because it reminds us that privacy is counter to our basic instincts to improve ourselves and to force parents to raise children as we think best.

IV. Privacy and the Human Heart

I want to end this essay with a quote from Hannah Arendt’s book *On Revolution*:

“The human heart is a place of darkness which, with certainty, no human eye can penetrate.”

The human heart is opposed to the human brain; it is the place of emotion and opinion in opposition to truth and reason. The human heart contains what even we don’t know about ourselves. Maybe a god can see the nakedness of the human heart, but we don’t even see it. We know how we dress in public, act among our peers, and speak on the street, but we hardly know what we really want to be doing. We may say the right things in public, but we also know that other thoughts come into our head. We know that thoughts that pop into our head—lusts, desires, vices—these too are part of who we are. They need to be hidden, but they cannot be denied. If we limit our depths by living transparently, if we make ourselves reveal our secrets, then we will repress the desires and needs of our heart and we will become less interesting; we will be less human.

What is more, the desire to eliminate controversial and antisocial opinions, speech, and acts from private will lead also to the distrust of all public actions. Brought into the public, Arendt continues in *On Revolution*, “The Hunt for hypocrites is boundless and can produce nothing but demoralization.” Since all people have hidden desires in their hearts, to insist on moral purity and rational coherence leads to the search for hypocrites. The result is that not only private life, but also public life, will be impoverished.

Privacy matters because it guards the dark recesses of the human heart and thus preserves our human depth. At a time when we possess a voracious human need to know everything and demystify all authority, private life names the threatened core of human mystery. Privacy may be the right to be left alone, as Samuel Warren and Louis Brandeis wrote in their famous article of 1890; but privacy is not simply about keeping one’s name out of the gossip columns, although it must also include that. Privacy matters not only because it protects our embarrassing secrets, but also because it affirms that having secrets is part of what makes us human. Private life matters because it makes possible a self that is unfathomable, a self that is irreducible to quantifiable things among things. Private life is where we hold secrets hidden from the world that give us depth. Private life is where our secrets, our deviations, our vices, and even our crimes make us unique, interesting, and human.

And private life matters because in protecting the private, we also preserve the public. Private life is the Border collie that guards the public from the intrusions of private matters, and thus opens a realm of common judgment about what is beautiful and what is ugly, true and false, right and wrong. And private life matters also because it insists that there is an inchoate and yet essential border separating those things that should be seen and spoken about in public, and those secret and dark and profound thoughts that live and thrive only within the darkness of the human heart.
The Private Life of the Writer

Ann Lauterbach and Wyatt Mason

Wyatt Mason: As I was thinking about having the chance to talk to Ann, I couldn’t get out of my head an image that was used by David Brin, one of yesterday’s speakers. So before Ann and I talk I’d like to bring that image forward into today. Brin suggested that we aren’t going to be able to roll back the technological encroachments upon public life that we’ve seen emerge in the past century and, especially, in the last generation. Let that encroachment into public life be represented in our minds by the ubiquitous presence of cameras around us now, in our homes and on our street corners, in our vehicles on their dashboards and on their back bumpers, and, of course, the cameras in our pockets.

To a respondent from the audience who suggested to Brin that we need to put stays on the overreach by corporations and the government that look into our lives, into our search histories, and sift through our phone calls and emails, Brin said, were evolving; that in fact the human species had nothing to fear from this evolution of technology because that evolution of technology was an enhancement, not a degradation. And yet there is this violent idea of conflict.

I find that image of technological encroachment and the attempt to stop it disagreeable, inhospitable to human life, and unpleasant. It made me think of another image that was more congenial but no less strange perhaps. It actually is inside, behind the eyes of another person. We access that through words, print of an original work of art.

That image, is quite violent, isn’t it, one of great conflict, not even conflict between humans, but conflict between different species of creature—and not even just species, but different families and orders of creature: human versus ape, primitive combat, sharp stick, and that most tender of animal parts, the eye. It’s inhuman, that image, and it seems to jar with Brin’s idea that it will be impossible to stop that penetrating gaze of the powerful upon the powerful and the powerless alike. Here’s the image that stayed in my mind from Brin’s remarks: Go down to the zoo, Brin said. Climb into the baboon enclosure and try to poke a pointed stick into the eye of the biggest baboon. He won’t let you. Elites won’t let us blind them, he said, the idea being that it can’t be stopped.

As I was thinking about having the chance to talk to Ann, I wondered if that space needs protection. I wondered if that space needs protection. I wonder about it because art—written art, visual art, spoken art, body art—is all a production of that space, that private space, that each of us has and might try to share. Yesterday Bard College president Leon Botstein talked about the interdependence of public and private life in Hannah Arendt’s view and the role that art, which is made in private, plays in the education of the individual who would have a public life. In a conference in which we’re talking about the ways in which privacy is being intruded upon in our era, it’s interesting to look at the artist as someone who lives with privacy behind their eyes; but it’s not even just species, but different families and orders of creature: human versus ape, primitive combat, sharp stick, and that most tender of animal parts, the eye. The eye does not blink. Nothing terrible happens. The eye survives, the finger withdraws, the eye blinks, and then the film repeats.

The idea is that a space behind the eye needs to be protected, but I wonder if that space needs protection. I wonder about it because art—written art, visual art, spoken art, body art—is all a production of that space, that private space, that each of us has and might try to share.

Only three copies of this film exist, in an era in which images from cameras have become ubiquitous and video has become the medium that everybody has everywhere all the time. You can see this film only in a gallery or a museum in its three copies. It’s that rarest of rare things, if not an original, a print of an original work of art.

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not a privacy that they guard in the same way that we might need to guard against probes by a corporation or a government. How does the artist, then, remain open in a time when there is so much fear about being seen, even as we expose ourselves to being seen, more readily than ever.

We’re going to discuss that question with Ann Lauterbach, author of nine collections of poetry, one collection of essays, and extensive writing on the visual arts. Ann’s work, its rigor, and clarity, has been frequently praised, most meaningfully by her peers, writers who recognize in her work a capacity to communicate something that can be found only through the thinking one does when alone.

Ann Lauterbach: Thank you Wyatt. By way of an introduction I wrote down a word chain that came out of my thinking about the word privacy, words that I personally affiliate with it and words that also came from some of the remarks that I heard here yesterday.

Solitude … Anonymity … Lonely … Invisibility … Interiority … Subjectivity … Autonomy … Independence … Agency … Exile … Sanctuary … Concentration … Focus … Duration … Comprehension … Silence … Patience … Reception … Pausing … Waiting … Listening … Thinking.

Virginia Woolf was invoked yesterday, her Room of One’s Own. Gandhi was invoked, his radical indifference to privacy as such. I think of Rilke’s Letters to A Young Poet, which speaks about solitude frequently. Rilke also says that it is the obligation of beloveds to guard each other’s solitude, which I take to mean, be aware of the difference between one person and another, even, or perhaps especially, within intimacy.

Marilynne Robinson writes luminous and lucid essays from a deeply contrarian perspective. This ability has a lot to do with her turning away from the frenzied environment of ostensible connectivity in which we live, and consulting instead her considerable capacity to turn information into knowledge. This idea interests many of us; certainly it interests me as the technosphere alters (as was also mentioned yesterday) our understanding of epistemology itself. The technosphere also threatens to disallow or consume the kind of oppositional thinking that might lead to oppositional actions and the gathering together that such action[s] must elicit, although this aspect has in recent history proven to be less than simple, from the rapture and rupture of the Arab Spring to the Occupy movement.

I don’t think information is the same as knowledge. Knowledge seems to be dimming, eclipsed by something more immediate, more instant, more gratifyingly reactive. Information is needed for knowledge, but I’m not sure how much or what kind. The human capacity to interpret, which for me is almost the same as our capacity to make meaning, is also in some jeopardy. To interpret is not the same as to critique. I’m interested in how humans made forms as interpretive facts or acts. I do not think technology is a form, but a tool; and as Ben Wizner said yesterday, it is a neutral tool, neither good nor evil. How we use it and the forms we make will tell us finally about the times in which we live. Only its use has moral or ethical implications or consequences. I’m interested in how we think about the consequences of what we think, do, and say. Perhaps thinking about consequences is related to being aware of our private selves within a collective public. This relationship seems particularly compromised even as it is everywhere exposed.

WM: The title of this conversation is meant to be, “The Private Life of the Writer,” which Ann told me was a misnomer. I want to read something from Ann’s extraordinary The Night Sky, writings on poetic experience. I’ll begin with a quote that Ann quotes from Mallarme; and then I’ll switch to something that Ann wrote in response to it. Mallarme:

With a glance I shall gather up the virginal absence scattered through this solitude and steal away with it, just as in memory of a special site we pick one of those magical, still unopened water lilies which suddenly spring up there and enclose in their deep white a nameless nothingness made of unbroken reveries, of happiness never to be, made of my breathing now as it stops for fear that she may show herself; steal silently away, rowing bit by bit so that the illusion may not be shattered by the stroke of oars or the plastering of the visible foam unwinding behind me as I flee reach the feet of any chance walker on the bank, nor bring with it the transparent resemblance of the theft I made of the flower of my mind.

Ann writes in response: “There are times, this being one, late November, everything, from air to hair turning gray, when a person wants to withdraw into a steady state of reception to become as mutely supple as a telescope scanning the night sky.”

I’m struck by that idea of a person who would want to withdraw into “a steady state of reception.” Can you talk a little bit about a potential correspondence between that state of reception and what solitude might mean to someone attempting to think privately?

AL: It’s an interesting correlation, isn’t it, the idea, when are you receiving when you’re in solitude? What is the reception space? Because reception
AL: Habits are useful. Someone like me, it’s difficult, because I have really bad habits.

WM: What does that mean, you have bad habits? You have nine books of poetry, an extraordinary collection of thought—

AL: I have really bad habits.

WM: Share, won’t you, since we’re all pruriently interested in badness, what Ann Lauterbach’s badness looks like. No one’s here; it’s just you and me.

AL: When I was much younger I kept a journal, and in the journal my wicked sabotaging inner voice constantly talked to me about discipline—constantly. It came up over and over again: You have no discipline. You have no discipline—which I affiliate with habit. William James is eloquent on the idea of habit, so I understand that it’s a good thing if you can have good habits. Bad habits are being dissolute and lazy, and postponing everything till the very last minute, and finding oneself feeling that the world is nothing but an enormous pile of tasks, and one can’t distinguish which one should be done first.

WM: This does not sound like solitude.

AL: No, it’s not, it’s very busy in there. So to find the space of solitude that we’re talking about—the habit of solitude, the place where you can actually make something—for me it’s an extraordinary, laborious process because all kinds of prior orders have to be put into play before I can actually go to that place. It’s time consuming, to get to that place.

WM: You haven’t revealed anything too dark here. You sound all too human in the idea that you have a life that extends beyond your desk—

AL: In A Room of One’s Own, was Woolf writing about the same thing that we talk about now as writers attempting to find that space in which we could receive and then, at our right moment, respond? Is it a different conversation a hundred years on, as you perceive it?

AL: It’s probably less physical. Woolf is very clear about the room, as in some space that you’re actually sitting in, an architectural idea. For us, it’s more room for one’s own, or room to have your mind, your own mind. That’s what is in jeopardy: formulating, or finding, or articulating your mind, and keeping it flexible and open so that it’s not rigid. That’s a kind of solitude.

WM: What would that practice look like? If the writer is dependent upon that practice of solitude, if the writer requires that space in which that will occur, how does the writer maintain that suppleness that allows for a response?

AL: I don’t know. You’re writing a novel. How do you do it?

WM: I wake up early in the morning and I go straight to my desk. That’s before the chatter and the noise intrude upon my ability to think.

AL: No, not as a writer, as a poet. It’s different.
WM: What is the difference, in your way of thinking, between a writer and a poet?

AL: There’s an organization in New York called Poets & Writers, which has always irritated me. Not only that, in the old days, when we went to bookstores, guess what: there was a section called Poetry and a section called Literature. Really.

WM: Also Fiction, strangely.

AL: And Fiction, yes. So poetry has always been separated out from even the idea of being a writer, and therefore I think also separated out, not always but certainly in our recent time, from any sense that we are engaged in public discourse, in the intellectual reality of the world we live in. We’ve been consigned to a strange little minority group that ostensibly never does anything but fight with each other—that’s the characteristic that’s always there. And the journalists of the world have decided that nobody—nobody but poets—reads poetry.

So if you’re called, as I was recently by a wonderful friend who is a poet, an intellectual, and I looked at him and thought, Wow, I haven’t heard that word for a long time. And I thought, is this not a good thing to be a poet and an intellectual, or an intellectual poet, which I suppose is really what he was saying. And so that word, the public poet—I saw on the bags you all have that there’s—[Ben, get off your bone, for goodness sake, that’s not nice!] The bag that you all got, or maybe some of us got.

WM: Yes, the tote bag with the W. S. Auden quotes.

AL: I think of Auden as one of the last poets who had a kind of public voice—a long time ago—who addressed public and felt that he could speak on behalf of the public, in a sense. I don’t think that, myself.

WM: The idea of a poet, though, who would have that role in society, is one that is deeply ingrained in your thinking and your work. Emerson is someone you write about a lot, and is central to The Night Sky, your suite of essays and engagements. I want to read some Emerson that you quote from one of his essays:

We dress our garden, eat our dinner, discuss the household with our wives; and these things make no impression, are forgotten next week. But in the solitude to which every man is always returning he has a sanity and revelations which in his passage into new worlds he will carry with him. Never mind the ridicule, never mind the defeat. Up again, old heart, it seems to say. There is victory yet for all justice, and the true romance, which the world exists to realize, will be the transformation of genius into practical power.

Can you talk a little bit about this idea within the context of poetry, your perception of its waning place, and the role that Emerson, central to a kind of thinking about America and what America might be as an idea—you call it a poem in one of the things that you’ve written.

AL: He is definitely a guiding figure for me and has been for many years. That passage comes at the very end of his remarkable essay “Experience.” His telling himself, up again, old heart, is his own admonition to himself because the essay begins with his saying that he’s incapable of grieving for his son Waldo. Then, as he writes the essay, he finds his way through to his loss. And in that remarkable enumeration of gradual awakening, he comes to this notion of practical power from this deepest consideration of the fact of loss, but then loss turned into a ground of experience that allows him to go on.

That for me was particularly encouraging. I find Emerson remarkably subtle and convincing in his ability never to be categorical. Emerson’s always thinking in terms of relation. So the place of the category is always in a kind of marvelous syntactical abridgment or shift-space; so that he gives you permission not only to be his interlocutor that happens because of that wonderful flexibility in his own thinking. So your own thinking is invited to come in, and not as a judge but as a participant almost.

WM: As experience itself.

AL: Yes, as experience. Reading as experience. The solitude involved in reading is of a very particular kind. If you’re reading and in a conversation with—That’s why I think Marilynne Robinson is so interesting, because she’s always in conversation with somebody, so she’s not really alone. And I think about my house, which is filled with piles of books and also some small artworks; and I always think that they’re talking to each other, and I have this weird notion that if I put Nietzsche next to—hmmmm, who would I put Nietzsche next to that they can talk to? I have this kind of way—they’re busy conversing.

WM: And of course they are.
AL: Yes, they are.

WM: Yesterday the architect Hans Teeves was talking about the way in which, when we lose a house, say, what we’re losing isn’t a structure. It isn’t the thing itself that can be rebuilt, but rather its contents that are carefully curated and chosen by the person who lives there, that loss of something a grandmother gave you of which you have only one.

That loss, that sense of putting things in relation, is something we do naturally as human beings. We curate our lives, perhaps not even self-consciously, just simply conscious of self, the idea that this pleases me, this means something to me, I’ve created something here which I can live in, a life that you can live in.

AL: The poet Robert Creely always used this word *company*. I have always found that a wonderful word. He was always thinking about the company. In a sense that’s what we’re talking about.

WM: One of the things you do so well in your writing is forge new forms, in which relation, in which combination, becomes meaningful. There’s no recurrence of, say, the villanelle in your work; rather—

AL: Only because I don’t know how to do it.

WM: But you do know how to do other things that you have been doing to the benefit of the reader who could then be put in relation to something, a new experience in writing. We have thousands of years of poetry in the West, from Homer forward, some of which is in forms well known to us and dependable; but you’ve forged a lot of forms that are new as a function of the time you spend in solitude. Can you speak a little bit about what the poet’s job is, if, no longer in the public square, the poet, then what is the role of that formal innovation in attempting to reach another reader in that private space where reading happens?

AL: This is a complicated question for me to answer. I think the reason poetry is something that we should still think about is that poets are interested in the micro workings of language, not the macro workings. I’m interested, in, for example, the amazing parade of prepositions that tell us a lot about relation more than verbs do, more and certainly more than adverbs. Prepositions are astonishing; this is not original with me. In English they’re super-important because the way in which one object is in relation to another in space and in time is all connected by the prepositional moment or the syntactical moment of the preposition. That’s *of, on, to, with, before, after, under, over*—this amazing scaffold. We’re interested in that,

For me personally what you’re flatteringly calling new form, what I came to some years ago, was this notion of the whole fragment, which was a different thing from the modernist fragment, which meant that the wholes had been lost, and everything—you know, “These fragments I’ve shored against my ruins,” says Eliot. There’s that fragment that was because we’ve lost this idea of entirety or wholeness; but there’s another fragment that’s more interesting to me, which is the fragment of the present, let’s say.

We’re having a fragment now, and all the people in this room will have memories of what happened here, even if they can check them by looking at the recording. But let’s just say it’s their memory. You have your memory and I have my memory, and those memories get attached to other things. You take out one piece of it with you, and I take another piece—I don’t take the whole thing because I can’t—and everybody else takes their piece, and those are fragments too. Out of the way in which we all conduct our lives there are these things that attach.

I don’t feel that I have the right to tell people what they should attach to, so my poems often have this kind of fragmentary feel to them, but it’s really about giving permission to people to make their own sentences out of them, almost, or their own paragraphs, or their own memories. I like it when people just take a little phrase and go. It’s like picking a flower out of a garden, and they just go off with the flower, and that’s your flower. I don’t care if they don’t have the whole garden, I actually don’t want them to have the whole garden; it’s my garden. You see? It’s an interesting kind of weird thing.

WM: Strangely, this makes me think of Snowden—

AL: Good!

WM: —with whom you’ll be speaking in a little while, in that one of the things that President Obama—go to *The New York Review of Books* and read Marilynne Robinson’s conversation with our president, the first part. She is in conversation in her work, but—

AL: He called her “my friend” the other day, and I was very jealous.

WM: He did indeed. And apparently, we’re going to watch that friendship unfold in public as their conversations are disseminated on iTunes, which is weird and wonderful. But Obama suggested that perhaps Snowden’s leak was
less meaningful than we might make it, by virtue of its being metadata, a huge amount of information that’s unparsable; that is to say, there’s no selection, there’s no company to it. There’s nothing you can take, no single flower you could pull from that field because you can’t reach any of it; it’s too vast.

It seems to me that this idea of privacy, and the question of what a person who’s attempting to make sense of the world through showing us the secrets of the world, versus a writer who, with incredible care, is trying to select from all of that for us, is a different way of thinking about what one means when one talks about having some sort of meaningful exchange with the world, or speaking truth in the world.

The life of the writer suggests for each of us as readers that we are fundamentally and safely private in a way that, when we turn the lens outward and we’re terrified by all the lenses turned on us, may not be the conversation.

**AL:** But the art will work. The work of art, as I said earlier, is a work of interpretation, right? It’s not about me; it is about my relation to what I call worldness. Language does that constantly—makes a relation between a given self and a given world. That’s what the deal is.

So when you go from your private reckoning of a self to a world, and you make something, and then you put it in the world, it’s in order for other people to have some acquaintance with your relation to it, and also with their relation to it. A kind of analogous space ought to open up in our encounters with, in particular, written work, that we’re in the company. We become empowered by knowing what that looks like, or the shape of it, or the form of it—whatever way you want to talk about that.

With the Snowden analogy, I don’t think that the information is at all interesting, or that we should even be preoccupied with it, unless there is some harm that’s been done. The gesture that’s important is that he decided to let our world know that some things were happening that ought not to be happening. That’s act that is important.

**WM:** Which relates to what you said earlier about the difference between information and knowledge. We have a lot of information. How do we parse through it to find what might be meaningful, what might be knowledge? One of your activities, in addition to poet and essayist, is teacher. You began teaching in the 1980s, right? I’d love to hear about your understanding of classroom space as some kind of public space that also has a certain degree of privacy and privilege to it, and the way in which we as people at a college might understand the value of that space in the life of the reader and the writer as we try to move from information to knowledge.

**AL:** Wow.

**WM:** I’ll ask it a different way just because you told me you took an incredible course in college, about the Bible and Shakespeare. When you talk about this class, it’s as though you just left it five minutes earlier.

**AL:** That’s true. I went to the University of Wisconsin, and there were two different courses, taught by Madeline Doran, a Shakespearian who also knew just about everything there was to know about the Bible, as literature. In both of her classes I learned the meaning of close reading. I understood that there is an intention to language that is of a very particular kind, having to do with a sort of intricacy to the way in which both Shakespeare and the Bible go about transferring information as knowledge. That was where it began, that and an amazing course in American intellectual history, which I hadn’t known existed until I got there. I thought, oh, there’s actually a history of American intellectual thought—how fascinating!

I have another confession. Along with bad habits, I have very little information I’m actually quite an ignorant person. And I have a very hard time—this is not just because I’m getting old; it’s because forever, I can’t retrieve pure information.

**WM:** Prosaic details?

**AL:** The names of things related to the dates of things related to the—there’s a whole world of information that’s attached to literature that I’m very bad at. I can come to these places only by association or contextualization. As a result of my feeling that I am really ignorant, I’ve figured out that I have some other things that I could convey or help happen in the class. That would be what I’ve come rather pretentiously to call causing thinking, causing people to think. That’s an idea of provocation or an idea of, what does it mean to think about this, bringing the attention to that thing itself. It’s a meta-space in a way.
between private and public, because we all know, and are perhaps tired of hearing about, just how badly we do in public, trying to talk about difficult things.

**AL:** Emerson said a couple of things wonderfully. One, he said—this is remembered always—“A foolish consistency is a hobgoblin of small minds.” So I’m not consistent, and as a result, I offer my classes too much. I give them more than they can possibly comprehend or read deliberately. Like, read all of this if you can. I always say *if you can.* I also give them texts that are not necessarily totally congruent with each other or with the subject.

There’s an idea of the disparate. When you’re faced with the disparate, as opposed to the same, you have to think, because you have to find a way to make that and that—you have to fill this space between. I don’t recommend it, but it is a kind of methodology that sometimes works, because the people are excited about the idea that they’re being permitted to make relations, between and among diverse texts; then something happens that can be useful. I also make students write a lot, and I ask them to select quotations and then write about those quotations so that they begin to feel that they have some right to form these relations directly rather than indirectly.

**WM:** It’s putting them essentially in the company of things that they then have to introduce themselves to in some fundamental way.

**AL:** Right.

**WM:** I think we’ve come to the moment when we can open this up to having a more companionable session, where you will ask questions of Ann.

**Q:** The question about the classroom as private and public space was very interesting, and I’d like to extend that to this room, to the auditorium, stage, speakers, audience. Which is, I’d like you to respond to this: At the beginning, you reprimanded someone for using a device. I think some people in the room took that as an assertion of good old politeness, a certain culture. I’ve spent a lot of time since then thinking about the question, are we in the audience entitled to a certain privacy that you, because of the invisible scrim, are not allowed to comment upon? Would you comment upon someone dozing and wake them up in the assertion of, this is impolite? To what extent are you aware as presenters—I’ve been on both sides of that—of the idea that we’re your captive audience? Are we entitled, since we can easily leave if we want to, to our privacy? Is this a question of public and private, of the way this goes down? I’d like your comment on that.

**WM:** This is a question of perhaps propriety and the way in which we would navigate a space in common, a question of whether or not we owe each other any sort of special behaviors or rights. In my limited life on this planet of 46 years I have seen that culture change. Sherry Turkle is probably our most articulate advocate in print about the changing ways in which civic behavior and technology are deeply at odds. Jonathan Franzen had an essay on the cover of *The Book Review* about Turkle’s most recent book upon this, her subject, which is the way in which technology changes the way that we occupy a civic space. I think the answer is, it does, and the question is, what do we do about it? Sometimes the answer is as simple as, pardon me, may I have your attention, which could be seen as rude, but also as fair. That would be something one could discuss, as you raise it; I thank you for that.

**AL:** I think it goes to that first question you asked me about reception. One chastises not because one thinks that everything one’s saying is interesting or important or useful, but because it’s depressing to think that whoever isn’t going to wait to find out whether it’s any of those things, because there’s more pressing or more interesting or whatever things on their agenda. We have these private agendas that seem to jeopardize this public space much more, and that’s too bad. It’s worrying. And it’s true that when my students begin to yawn—

**WM:** —or sleep—

**AL:** —or sleep, I feel very sad.

**Q:** Speaking as a fellow metaphorist, I have a couple of questions about metaphor, one for each of you. I’ll start with our special guest here. I was very impressed with the poem about receptivity. And I had a jolt with the line about the telescope, because it struck me as a metaphor that seemed—and you can correct me—a sense of empowerment within your zone of isolation and solitude. The telescope meant that you’re not passive and that you can reach for your receptivity in any direction you want. And it’s certainly not hostile to modernity. I’ll follow this up with a question to Wyatt. But am I on target there? Because I found it very striking.

**WM:** Shall I read the lines again so that we have them before us? This is Ann’s response to the Mallarme passage.

**AL:** But it’s not a poem; it’s prose.
WM: Prose, yes. “There are times, this being one, late November, everything, from air to hair turning gray, when a person wants to withdraw into a steady state of reception, to become as mutely supple as a telescope scanning the night sky.”

Q: I found it very related to the notion of this conference, that privacy can be empowering and a place from which you can reach out.

AL: I think that’s lovely and right and accurate. The fact that this telescope came into my head then is also kind of interesting except it—just to be for a moment autobiographical: When I was quite young, like sixteen, my mother drove us West and we visited some people in Salt Lake City. The son of these people had a telescope in the backyard. I got to look through the telescope and see the rings of Saturn. This astonished me, this possibility of worlds beyond worlds. The other thing to say is that I think spatially, as opposed to temporally, so the world comes to me as a series of spaces. I have a strong spatial imagination. Worldness to me is very connected to the idea of space, in the most profound sense of space.

Q: The other thing connects to my question for Wyatt: we were talking about people being distracted in the audience and whether that’s their right. I certainly grant Wyatt’s right to have been distracted during my talk yesterday and have ignored everything of the meaning, rather than just zeroing in on a metaphor of the eyeball. You have a right to daydream both before and after the metaphor that struck you.

WM: I’m not sure that was a question.

Q: No, it wasn’t, but you’re welcome to respond.

WM: I think choosing something that strikes one, or not being able to choose otherwise because one is struck, is different from ignoring. That was something I noticed and that made me think of something, which ideally is what a talk might do, make you think of something, which then you would respond to, which was all I was trying to do.

Another question or comment?

Q: I have a question for Ann about your statement that Auden was one of the last poets to speak on behalf of the public. Could you expand on that a little bit in relation to which public you have in mind? For example, is Ann Sexton addressing the public? Is Sandra Cisneros addressing the public? Is Eavan Boland, who writes about this in her exploration of what it means to talk about women’s poetry and the public?

AL: Thank you, that’s a good corrective question. I’m thinking about Claudia Rankine’s extraordinary book, Citizen: An American Lyric, which was clearly addressing the public, our public, our particular public.

I think my comment was more about reception than about what poets want to do. I think almost all the poets I love want to engage a public, and a public beyond their coterie. So I may have misspoken, because what I meant was, Auden was one of the last poets who was given permission to be considered a public voice. After 9/11 his poem, “September 1st, 1939,” was widely quoted, requoted as it were. It starts with, “I sit in a dive on 52nd Street” and “a low dishonest decade.” There’s an incredible sense that he’s the single person, but he’s in this world that he’s aware of, a very particular kind of political world. Auden comes to mind, one that he’s on that tote bag, and I’m thinking, why is Auden on this tote bag and not somebody since Auden?

You’re absolutely right. Poets who write want to write into the public or for the public, not for themselves; but journalism, mostly, has decided that poetry is an irrelevant and uninteresting form. The reason for this is that we are now in a culture in which there are two things that preoccupy our public imagination: one is information qua information, and the other is entertainment. Poetry doesn’t do either. It neither conveys information as information, nor does it particularly entertain. It can, but it doesn’t always, or it entertains differently from the way one might construe what entertainment is. So it falls into this place that just doesn’t have enough traction in the public imagination. At another moment it might again; you never know.

WM: Entertainment is an interesting word, in that its etymology roots back to the idea of being held, in the sense of captivate. Poetry certainly has the power to hold our attention and to captivate us, albeit it not necessarily through the narrative strategies that are more common in what we see as entertainment today. Another question?

Q: You talked about how the writer is dependent on this environment of solitude. You also talked about a public part, where your writing comes out and you introduce it to the public. I was wondering how you make that leap from the private sphere to the public sphere, and if it’s something done out of necessity, or just how it makes that leap.
**AL:** It’s interesting that you think of it as a leap. I suddenly had this picture of poems leaping. Bye! Bye! Good luck! I’m not quite sure what the question is. There’s a thing called publication, and then the prayer that when the poem is published, either on the Web or in a book or in a magazine, that it begins its journey into its public life.

What’s interesting about that is then you have no jurisdiction over it whatsoever. I actually love that feeling of the departure, you know, although when I finish a book I often feel quite sad—it’s the way I think parents feel when their kids go to college. Oh well, good luck, have a good time; hope you meet some nice people.

**Q:** How do you as a poet decide to take it out of the private sphere? Can it seem tempting to keep it as an insular thought that you don’t share with anyone? How do you decide, I’m going to share these thoughts with the public around me? That’s what I was trying to get at.

**AL:** I don’t think it’s a decision. As a writer, you form a relation with what you’re writing. I guess you could call it a private relationship, right? I like to think that the thing I’m making has a certain amount of agency, it has certain kinds of demands it makes on me—not just me, on it; so that is already a kind of reciprocity.

If the question is about when do you know that the poem is finished, that’s one way of thinking about, well, now it can go into a public space. There are all kinds of ways; but I’m not sure where you’re asking the question, whether it’s in the writing of the poem, thinking about public-ness, or whether it is putting the poem into the world—or whether it’s about how does the world get into the poem, which is a complicated kind of question. I don’t think there’s a decision involved here other than the decision, yes, I’m going to send this out now into the world, or even just read it in public, which is a different, more exciting kind of thing to happen.

**Q:** I want to extrapolate on the question of writing for the public, and ask about writing in public. I’m wondering if you ever got the sensation writing in public that someone was peering over the shoulder and watching you write, and I’m wondering if that changes anything for the process of writing.

**WM:** You mean physically, say, at a café table and somebody is surveilling you.

**Q:** Yes, exactly.
define this differently. I write reviews of books out of, almost always, the love of a book that’s come across my desk, either something I’ve happened upon or that someone thought to send me because they thought I’d like it. If we imagine that there’s a very optimistic, however small, culture of readers who do want to discover things that will in some way electrify them and move them, to want to think and write and be, then writing something meaningful is the only guarantor of publicity.

A good example of this is Ben Lerner, who wrote three collections of poetry that were well regarded and little read within the larger precincts of the culture. He wrote a novel that was published by Coffee House Press, in paperback, after it was rejected by all the major publishing houses. And hundreds—I’m not exaggerating—of writers got behind this book because they loved it. All these big names threw themselves at the book, and said, hey, read this thing, and a lot of people came to read not just this novel, but also his next novel, and his essays, and his poems by virtue of love. I think good writing garners that regularly.

**AL**: The postscript to this is, if you think about numbers, you’re ruined. You can’t think about how many. You can only think about specifics.

**Q**: Ms. Lauterbach, when you mention receptivity, I wanted to ask you about what you consider the source [of] what you are receiving—where it comes from. I quite understand what you mean. Solitary thinking is an activity where something is going on; but I’m unclear where the source of what you receive might be.

**AL**: I don’t think I think about sources. Along with thinking of myself as a scanner, I think of myself as a stater. I like to stare. Staring, I think, is related to seeing or watching the light. So I’m going to say, since you would like a source, that the source of my solitude is light and the way in which light alters the world.

**WM**: And we’ll leave it there.
one time it was difficult to discover information about people, and just as difficult to get information about ourselves out into the world. Now, Tien says, we are “public by default and private by effort.” But how much effort does it take to sustain a sense of inviolability? We can be found almost anywhere in the world at any time through our own devices (pun intended). The constant intrusion is ubiquitous and omnivorous.

Most of us are addicted to these systems of connection. That’s what humans do: we get addicted to our inventions. People expect an answer, and they expect it now. At times the ability to work depends on an immediate response. We have internalized these time/space obligations and do not know how to step away from them. If we do not make a Herculean effort to remain balanced within this imbalance, we feel fragmented and, often, unhappy.

What would it mean if the species were to lose altogether the need and desire for privacy, solitude, time, and focused attention? What if we were the last humans to be bothered by the intrusion on our privacy? What would it feel like if our species evolved out of the need for an inner life?

I may sound like what social media scholar danah boyd calls “a techno-fretful parent.” Perhaps I am, but I have a public self as a university dean and a private self as a writer. The writer self has a deep need for solitude (or rather, I have a deep need for solitude, which is probably why I write). My longing for quiet and solitude comes from another urgent need—the need to think. And thinking requires having no intrusions, at least for a time.

As political theorist Hannah Arendt noted, thought is essential to understanding our human condition. In order to perform the task of nonutilitarian thinking and to produce work that tells the stories of human experience—inward and outward experience—writers, artists, and others need solitude, or the illusion of solitude, and time. As a result of our “always-on” ethos, we have neither time nor space within which to lose ourselves in reflection. There is always something outside the self, robbing the self of the self.

When Thomas Merton, author of The Seven Storey Mountain, entered the monastery, his decision appeared to be unexpected. Not so long before, he had been the editor of a student humor magazine at Columbia University. Merton left the world to become a Trappist monk not because he did not love the world, but because he needed to deeply engage his spiritual life. The choice was not to move away from the world, but rather to move toward himself.

If, as a species, we spend most of our time projecting ourselves into the world instead of developing ourselves, are we not living in what social theorist Guy Debord described as “the spectacle,” a social relationship between people that is mediated by images? For Debord, what is dangerous about this identification with the spectacle is that it usurps authentic activity. It creates an inverted relationship to reality, in which projection of the self and the addiction to this projection are more real and significant than human interaction, which potentially can lead to social change. What could better describe our contemporary situation than to say that all has become simulacra, that the public sphere is no longer a place for collective action but rather a place primarily redesigned to publicize the self, to make the self visible to ourselves and to others?

In The Human Condition, Arendt wrote, “It seems to be in the nature of the relationship between the public and private realms that the final stage of the disappearance of the public realm should be accompanied by the threatened liquidation of the private realm as well.” Perhaps we have overadapted to being watched, to having little time and little of ourselves that is not projected out into the world to be “posted,” “liked,” or “deleted.” At what moment does our humanness, as we have known it, become unrecognizable to us. Or have we already passed that point?

Arendt wrote that were humans ever to leave this planet, to live on another where the contingencies of life were all man-made, then everything we have theorized about our humanness on Earth, our adaptation to our natural conditions and to our physical relationships to each other, would cease to make sense. “Yet,” she wrote, “even these hypothetical wanderers from the earth would still be human; but the only statement we could make regarding their ‘nature’ is that they are conditioned beings, even though their condition is now self-made to a considerable degree. I often feel that we might already have “de-planeted” to a bionic, virtual world, even though gravity still binds us to this one. Many are pleased to imagine living outside our body natures and the intimacy of our physical selves, to imagine the prospect of “de-bodying” or “uploading” the brain as a way to help us escape the anxiety of mortality, the weight of individuality, and the obligations of human interaction. All such preoccupations should concern us deeply and alert us to how the species is evolving.

To counter this frightening trend to overexternalize the self, we need to look to those spaces that encourage access to intuition, dreams, the unconscious, the metaphorical, and the symbolic: the worlds of literature, art, film, and creative forms of thought. In the practice of making art and in receiving it, we can understand that if we go deep enough, we will find our most compassionate selves, capable of communicating across cultures, distances, and differences. We need to take the time and psychic space to protect these arenas of contemplation that are so essential to our collective well-being.
We've seen controversies and anxieties around privacy explode in recent years. In recent years, the proliferation of scandals around media intrusion have become an increasingly urgent focus of public debate in the United Kingdom, facilitated in particular by the Leveson inquiry into the culture, conduct, and ethics of the British press. Especially since the Snowden revelations, these anxieties have run alongside an increasingly fierce debate over the scope of state and corporate intrusion and control over our private data.

Much of the debate and commentary on privacy issues in recent years has rightly been focused on these phenomena and the legal, political, and technological dilemmas they raise. But framing the debate in terms of the ways state and non-state agencies are menacing our privacy rights risks simplifying our complex and ambiguous relationship to our privacy. To portray the private self today merely as the victim of malign external forces is to ignore the many daily ways in which we collude in the erosion of our own privacy.

Only if we attend to how intricately the technological and the political are bound up with the psychic and cultural dimensions of private life can we discern how we are at once victims and perpetrators of its erosion. This ambiguity might shed some light on how muted and uncertain public understanding of, and protest against, state and corporate surveillance has been. These offenses against privacy are all too continuous with the intrusive culture in which we have come to live and breathe. Perhaps it’s hard to generate real outrage against a phenomenon with which we have become so complicit.

We are increasingly swept along by a drive toward total and permanent visibility that is closing down the spaces in which a private self can preserve and cultivate itself. An imperative, no less powerful for being tacit, coaxes us into dragging every region of our selves—the selves of others as well as our own—into the light. “Privacy is for paedos,” Paul McMullan, a British tabloid journalist, notoriously remarked at the Leveson Inquiry, in response to a question about his intrusive techniques. “Fundamentally,” he elaborated, “no one else needs it. Privacy is evil…it brings out hypocrisy.”

If we’re to confront the contemporary crisis of privacy head-on, we may just need to recognize how much, for all its pantomime villainy, McMullan’s statement runs with, rather than against, the grain of our culture. Our avid consumption of and demand for the perpetual drip-feed of reality TV,
celebrity gossip, and the more ordinary forms of continuous self-revelation on social media hints at how privacy—the existence of a region of life withdrawn from the public gaze—has precisely become an “evil,” an obstacle in the way of our right to know whatever we want about whoever we want.

Nowhere is this tacit conviction played out more than in our relationship to celebrities. By intruding into their bedrooms, bodies, and bank accounts, the media and its consumers—that is, more or less, all of us—seek to penetrate and destroy not simply the privacy of a select few, but as McMullan hints, privacy itself. The very existence of a life unseen is a scandal to be eliminated at all costs. In our frenzied peeping into the lives of others, then, we play out the belief that with a sufficient glut of light, nothing will remain unknown to us.

Psychoanalysis hints that this war on the unknown in the other might be a displaced rage against the unknown in myself. It intimates depths and excesses in us of love and hate, vulnerability and rage, fear and voraciousness that we neither can nor want to know about. It insists that my inner life always exceeds any known quantity, and that this un-knowability is a fundamental human predicament, a truth of every human time and place.

Different histories and cultures will bear the burden of this truth very differently. Our own culture of tacitly coerced self-externalization demands that we view our self as reducible to its external manifestations, to the pictures we can take of it, the data we can share about it, reducible, in short, to the self we can put on display. Social media facilitates the sharing of our deepest personal intimacies, from birth to sex to grief. We are enjoined to create and broadcast “lifelogs,” rolling updates of some, or even all of our lives.

Far more than one of many arbitrary diversions of contemporary life, the lifelog is the purest distillation of the relationship we’re forging with our own privacy. Under the name “Quantified Self,” lifelogging is taking on the dimensions of a distinct tendency and philosophy of our own moment. Its basic premise is that we can employ a limitless array of technologies, scaled to the minute dimensions of our everyday lives, to resolve the essential problems of selfhood, bodily and mental.

Wearable wristbands or smartphone apps measure, monitor, and share the data of our daily bodily and neurochemical lives—cholesterol, mood swings, and no doubt soon enough, our serotonin and dopamine levels—as though the self were reducible to this sum of numbers. Some loggers use wearable cameras to record and instantly upload to the Web every detail of their waking lives. Such experiments in radical transparency show a zeal to dispose of any excess or remainder in the self, to perceive ourselves as indifferent instances of a generalized calculus.

But this is to assume, along the lines of the chillingly resonant tech executives at the center of The Circle, Dave Eggers’s 2013 novel of our dystopian present, that privacy can simply be abolished by a sufficient glut of transparency. Psychoanalysis would suggest otherwise. The private self cannot be reduced to the circumscribed spaces that we typically speak of as “private”—the home, the bank account, the hard drive, the external tokens of what we might call “bourgeois privacy,” the privacy of what I do or do not own. We don’t, after all, cease to be private when we leave these spaces and enter the public realm—not even, in fact, when we broadcast our every waking moment to the world. The private self isn’t some discrete entity we can leave behind, but a perpetual presence, concealed and revealed in the minute aspects of our being. Walking, smiling, speaking, writing, joking, eating, weeping, listening—our private self is diffused in all the ways we express it, and so it is not reducible to any of them. It is concealed not so much behind as in the face we show the world.

I see the two worlds that I occupy—the literary and the psychoanalytic—as intrinsically at odds with the imperative of permanent visibility governing our culture. Not that this imperative was born with the advent of tabloids and the Internet. The Scarlet Letter, one of the most powerful and prescient stories of the private self and its exposure, locates the conflict between the need to conceal and the drive to unmask the self in Puritan New England. Ushered onto the scaffold for bearing a child adulterously, Hester is paraded, the embroidered scarlet A glaring from her chest, before a baying crowd. The beadle proclaims “the righteous Colony of Massachusetts, where iniquity is dragged out into the sunshine.” Holding her baby, shaming evidence of this iniquity, Hester is forced to bear “the heavy weight of a thousand unrelenting eyes.”

But the glare of a thousand eyes and of the sunshine itself fail to ensure the triumph of Boston’s pious light over Hester’s corrupted darkness. On the contrary, Hawthorne notes, “in the face of her lush beauty, the world was only the darker.” Her inner self is rendered more, not less, obscure by the drive to unmask it. For all the penetrative force of its thousand eyes, for all its concentrated focus on her heart, the crowd cannot see what it is looking for.

Just how far is the profane glare of today’s TV cameras and telephoto lenses from the pious light of Hawthorne’s Puritan crowd? Do they not share the same zeal to purge the self of its secrets, the same hatred of the self’s dark recesses? Our culture, I suggest, is as heavily policed as Puritan Boston’s by beadles dragging our iniquity into the sunshine.

Literature, as the example of Hawthorne suggests, allies itself with Hester over the beadle, with the preservation of the self’s essential ambiguity over its
enforced transparency. We turn to literature as an antidote to the quantification of the self, for a sense of the inner life as in excess of any laws, metrics, or principles under which it could be subsumed.

It’s in this sense, I would argue, that the defense of privacy is tied to the defense of imaginative life. At the end of 2014, an international group of writers drafted a petition decrying the escalation of state surveillance and calling for an international digital bill of rights.

Why, we might ask, should writers have any more distinct contribution to make to this debate than, say, florists, or basketball players? In one sense, they don’t, insofar as privacy is an essential dimension of any and every human life, to which no one has any more right than anyone else, certainly not by virtue of profession. But if privacy has become such an urgently live issue for writers, it’s because privacy is the air that imagination breathes.

At stake in the incursions of the state, the media, and corporations into our everyday lives is the right to an inner life as much as to the protection of our personal data. A self coerced into permanent visibility will come to feel constrained not only in what he can say but, eventually, in what he can think and imagine. In externalizing the self, a surveillance society—not only the persecutory monitoring of the totalitarian state envisioned by Orwell but also the more tacitly imposed, pseudo-benign mutual monitoring of our social media culture—threatens our interiority, our right to a private self that ensures that we can never be fully transparent, to others or to ourselves.

In a culture driven to render us ever more transparent to one another, literature and art may be among the few spaces in which to keep hold of this understanding of the private self. Without an implicit claim to privacy, to an external and internal room of one’s own, there can be no literature.

From the earliest days of the psychoanalytic movement, literature and psychoanalysis have shared a mutual fascination (and, no doubt, mutual suspicion). I see the source of that mutual fascination as their shared sense of the essential privacy of the self. Each strives for a deep knowledge of the self, but premises that striving on a recognition of its limits. What I can know about myself or anyone else is conditioned by what I can’t. In *The Interpretation of Dreams*, Freud famously speaks of “the navel of the dream, the spot where it reaches down into the unknown.” It is the spot where the mastery of the analyst runs aground, when she recognizes that something in the dream “has to be left obscure.”

Freud’s intuition of this spot of obscurity, I suggest, has a peculiar and urgent resonance at this juncture in history. In a culture of coerced visibility that assigns meaning only to what can be seen and measured, how is this region of obscurity in our dreams and in our selves to be valued and protected?

References
What Do We Lose When We Lose Our Privacy?

Rochelle Gurstein

This question has become increasingly difficult to answer, living, as we do today, in an ever-expanding social sphere that offers boundless opportunities for men and women to put their private lives on display as never before and has fostered a new species of invasion of privacy—self-invasion. We need only think of all-glass apartment houses, addiction-recovery memoirs, cancer diaries, televised interviews with people who have undergone sex-change operations, reality shows, blaring cell phone conversations in public places, and, of course, the giddy, salacious forms that circulate through the Internet, the kind that led not so long ago to Anthony Weiner’s downfall. The manic urge for attention of any kind is so prevalent, the invasion of privacy so nonchalant, that most of us no longer notice, let alone mind, what in the past would have been experienced as insolent, incendiary violations of privacy.

Given our largely resource-less situation, we might profit by asking instead, what did people used to believe they lost when they lost their privacy? Surprisingly, it was only during the last part of the 19th century that a large number of people began to speak of privacy in a self-conscious way because they felt it was under siege as never before—first and most relentlessly, by new mass-circulation newspapers that specialized in invasive, gossipy, sensational stories, aided and abetted by impudent interviewers and photographers, but also by the publication of excessively revealing biographies, private letters, new-style realist novels, and pamphlets dealing with what was called “sexual hygiene.” It is also worth noting that in the most searching analyses of privacy, the author almost always pointed out that privacy was “a distinctly modern product, one of the luxuries of civilization, which is not only unsought but unknown in primitive or barbarous societies.” Here I am quoting E. L. Godkin, a leading man of letters and founding editor of the Nation. And privacy was all the more precious to them for that reason.

No doubt the most famous 19th-century article on the subject is “The Right to Privacy” by Louis Brandeis, a future Supreme Court Justice, and Samuel Warren, his law partner at the time, which was published in the Harvard Law Review in 1890. By this time, the violation of “the sacred precincts of private and domestic life” by “the instantaneous photograph and newspaper enterprise” had gone so far, the press had so radically “overstepp[ed] in every direction the obvious bounds of propriety and decency,” that they believed the law would have to intervene. To this end, they invented a legal right to privacy dedicated to protecting the “spiritual precincts” of “inviolate personality.”

Godkin, too, recoiled at the “vulgarity, indecency, and reckless sensationalism” of the new journalism. And he spoke of the significance of privacy in much the same way as Brandeis and Warren in an influential essay, “The Rights of the Citizen—to His Own Reputation,” published the same year in the more popular Scribner’s Magazine. The legal recognition of Sir Edward Coke’s famous dictum, “A man’s house is his castle,” according to Godkin, was “but the outward and visible sign of the law’s respect for his personality as an individual, for that kingdom of the mind, that inner world of personal thought and feeling in which every man passes from some time.”

Respect for privacy was also held to be essential for the cultivation and preservation of “personal dignity.” This was meant on the most basic level, of having a secure realm in which to conduct one’s daily life unobserved. Critics were revolted by the very fact of exposure, the way, for instance, “the President is photographed and described in all possible and impossible places and positions, dignified and otherwise, and his family are pictured in detail, mostly from imagination.” (This article was written in 1896 when President Cleveland was in office.) Repeatedly, critics of exposure wondered aloud what would happen to “decency, modesty, sanctity—conceptions which, after many painful centuries, the more civilized minority of the human race has begun to venerate” in the new society of “presumptuous” and incessant publicity.

In addition to deploring the loss of the place where we think and feel, the very foundation of our “inviolable personality” and dignity, 19th-century critics spoke with alarm about another loss. It concerns not the person whose privacy has been violated, but all of us who willingly look on. One of its most memorable expressions is found in a lesser-known novel by Henry James, The Reverberator (1888). Reflecting on what a steady diet of sensational, gossipy newspapers has done to her and her family, Francie Dossen, the novel’s heroine, worries that she and they have become “coarse and callous,” that they have “lost their delicacy, the sense of certain differences and decencies.”

Moral coarsening, the wearing away of the capacity to recognize what one has become: this was the deepest anxiety and, in my judgment, the deepest insight of what I call the party of reticence. If it is our very capacity for sensitivity, our very feeling for “certain differences and decencies,” that we lose as a consequence of inhabiting a world in which no one is guaranteed the refuge of privacy and no subject afforded the protection of silence, this goes a long way toward explaining why, more than a century later, after the invention of the radio, television, cell phones, 24-hour news cycles, and the Internet, so many of us today have such a hard time recognizing what we lose when we
lose our privacy. It turns out that the very atmosphere in which we move and breathe deprives us of the perception we need to recognize our predicament.

But it is not just our moral coarsening that has made our condition all but invisible to us. It is that such ideas as moral coarsening and, for that matter, "delicacy," "decency," "propriety," "sanctity," and "shame" sound old-fashioned to us, or worse. And this is because, alongside the 19th-century reverence for privacy as the guarantor of individuality and dignity, there arose a competing cult of candor and openness that interpreted every attempt to maintain one’s privacy as proof of evasion and repression—in short, some form of guilty cover-up. This way of thinking, which acquired even more authority after Freud, has become such an inerterate habit of mind that it is beyond dispute. And this makes its premises very difficult to think about, which is precisely what we need to do, if we are ever to understand why so many of our contemporaries think it is a good idea to live in glass houses, literally and metaphorically speaking.

Like the self-conscious understanding of privacy, the cult of exposure is of recent vintage, emerging during the last part of the 19th century. Its reigning faith was that people—good, honest people—have nothing to hide. “Live in the open air!” Mary Putnam Jacobi, a doctor and suffragist, exhorted her audience in a public lecture before the New York City Positivist Society in 1871. “A thing that one is not willing the whole world should know,” proclaimed Jacobi, “is wrong.” In The Reverberator, James captured this attitude at its most primitive level when he put the following thought into the mind of one of his characters: “Well, if folks are immoral, you can’t keep it out of the papers—and I don’t know as you ought to want to.”

This deep-seated suspicion of privacy as a hiding place for wrongdoing took on a particular cast in democratic societies. “In all democratic societies today,” wrote Godkin, “the public is disposed either to resent attempts at privacy, either of mind or body, or to turn them into ridicule.” What is more, he wrote, people were apt to suspect “all regard for or precautions about privacy” as signs of “exclusiveness,” what today is called elitism. James brought this attitude to exquisite life when he had the prying newspaperman George Flack explain his ambitions to his friend Francie Dosson: “I’m going for the inside view, the choice bits . . . . what the people want’s just what ain’t told, and I’m going to tell it . . . . That’s about played out, anyway, the idea of sticking up a sign of ‘private’ and ‘hands off’ and ‘no thoroughfare’ and thinking you can keep the place to yourself. . . . Now what I’m going to do is set up the biggest lamp yet made and make it shine all over the place. We’ll see who’s private then, and whose hands are off, and who’ll frustrate the People, the People that wants to know [sic]. That’s a sign of the American people that they do want to know.” This allegedly democratic appeal to the “people” was constantly put forward by editors of the new-style journalism: “We are giving the people what they want and we have the receipts to prove it.” And it is a refrain we continue to hear today.

Critics of invasive journalism found the appeal to the marketplace self-serving. Behind the charge of “exclusiveness” they identified a deformed double of the democratic principle of equality, what Godkin called “the general desire for superiority, no matter how acquired, with which we are all consciously or unconsciously motivated.” Here Godkin was recognizing a powerful, unsavory impulse that has all but dropped from our consciousness and which today’s screaming cell phone users and Internet exhibitionists would be well served to remember. Brazen journalism was the great, spite-filled equalizer, lowering its subjects to the same level as the reporter and the reader: “The dragging down of the mighty has been but unpleasing sport to the natural man in all ages,” he wrote. This desire to lower was repeatedly denounced. “Is a man the object of reverence and admiration for piety, high mindedness, purity?” asked W. S. Lilly in an article entitled “The Ethics of Journalism” (1889). Then journalists “will show their readers these pretended virtues are a mere cloak for some base or sordid end; will demonstrate conclusively that “old Cato is as great a rogue as you. . . . One of the main achievements of the newspaper press during the last quarter of a century has been to de-idealize public life.”

For James, as he says in The Bostonians, the modern newspaper represented “the highest expression of ‘familiarity,’ the sinking of manners, in so many ways, which the democratization of the world brings with it.” In this same vein, Godkin told a story about a traveler’s experience at a hotel in a western mining town who “pinned a shirt across his open window on the piazza while performing his toilet; after a few minutes he saw it drawn aside roughly by a hand from without, and on asking what it meant, a voice answered, “We want to know what there is so darned private going on in there?” The stinging demand “What is so darned private going on in there?” signals the propensity of the vulgar to focus exclusively on what everyone has in common—their private bodily existence. Which momentarily does away with all social or hereditary differences—as well as legitimate distinction rooted in achievement—effectively reducing everyone to the base equality of the condition of having a body. The prying spirit of journalism accomplishes much the same thing, transforming one’s personal life into common property. As James put it in his description of the newspaperman in The Bostonians: “For this ingenious son of his age all distinction between the person and the artist had ceased to exist; the writer was personal, the person food for newsboys, and everything and everyone were everyone’s business.”
There is much more to say about why privacy mattered to these men and women whom we have come to regard as Victorians—and all the negative connotations (some deserved, others not) that have been attached to that label—or epithet. Unfortunately, I have time only to briefly consider two things that they knew that we no longer know and that I believe we ignore at our own peril. The first concerns the notion that only people who are involved in wrongdoing or in guilty cover-up have something to hide. The party of reticence, in starkest contrast, held the conviction that there were limits to knowledge that must be respected. “All the more intimate and delicate relations,” wrote James Fitzjames Stephen in his *Liberty, Equality, and Fraternity* (1873), “are of such a nature that to submit them to unsympathetic observation, or to observation which is sympathetic in the wrong way, inflicts great pain, and may inflict lasting moral injury.” This applied to knowledge about one’s self as well: “Privacy may be violated not only by the intrusion of a stranger, but by compelling or persuading a person to direct too much attention to his own feelings, and to attach too much importance to their analysis.” To which Stephen added, “That any one human creature should ever really strip his soul stark naked for the inspection of any other, and be able to hold up his head afterwards, is not, I suppose, impossible because so many people profess to do it; but to look on from the outside is inconceivable.” From this perspective—and it could not be more alien to our confessional, tell-all, therapeutic mode—only people without dimension, people who are shallow or empty, have nothing to hide.

The other thing that is crucial to recover is that the party of reticence regarded words and images that appear in public far more seriously than we do, not least because they understood that the public and private realms were linked in ways that we have long lost track of. Over and over again, they raised the question of which matters were large and significant enough to rightly occupy our public space and withstand public scrutiny, and which were so small, vulnerable, or fragile that they required the obscurity of privacy to exist at all, let alone to retain their meaning and emotional resonance. This, they repeatedly noted, was a matter of taste, a matter of properly judging scale and proportion—and taste, they feared, was just as likely to be worn away by a steady diet of invasive, gossipy journalism as the sense of delicacy, which made possible the recognition of and respect for “certain differences and decencies.”

Here we are confronted with another loss of sensibility that has blinded us to what we might call the collateral damage of today’s widespread disregard for privacy. We are no longer aware, as the party of reticence was, that when private matters are indiscriminately flooded with light, their very nature changes: they become either light and laughable—we need only think of the jokes of late-night talk shows about Anthony Weiner (or President Clinton and Monica Lewinsky)—or they become indecent and obscene—the notorious cell phone photos that could not be shown on these same programs (or take your choice of the various things we know about Clinton’s affairs). This insight helps to explain why the world we inhabit together feels—at least to me—even more ugly, coarse, and trivial. All of which is to say that when the boundary between public and private becomes as extremely porous as it is today, we lose far more than “that kingdom of the mind, that inner world of personal thought and feeling in which every man passes some time,” which would have been disaster enough.

This leaves us with the vexing question: What is to be done? In the time remaining, I can only begin to address this. First we need to recognize that the law is of no help here, that Brandeis and Warren’s turn to it was already a desperate measure, and that those who sought to remedy invasions of privacy by taking their case to court almost always lost. This is largely due to the conceptual poverty of the law; because it can intervene only when the rights and material interests of a particular individual have been violated, right-to-privacy litigation encompasses only the commercial use of a person’s likeness for advertising purposes without that person’s consent (and again, the plaintiff typically lost, even in this domain) and, in consequence, the law was unable to take account either of the “spiritual precincts” of “inviolate personality,” as pictured by Brandeis and Warren, or of the moral and aesthetic harm to the public sphere that I mentioned a few moments ago.

What is needed to protect our privacy and our common world, in my judgment, belongs to an entirely different realm, deeper, and far more elusive than the law: the realm of sensibility. Here we need to acknowledge again that the sensibility that once protected our privacy and our common world—the reticent sensibility with its key words of shame, propriety, decorum, decency, delicacy—has been discredited, and that without it we are largely resource-less and defenseless. Whenever I get to this point in my thinking, my next step is to ask, are there any daily experiences, practices, traditions of thought, social conditions still alive—even fragments of them—that foster respect for privacy, dignity, civility? I am sorry to say that I come up empty, and this disheartens me, for I fear that unless we, as a society, can recover the kind of sensitivit that used to recoil in the presence of indecency, we will live in a world where fewer and fewer people are aware that they lose anything at all when they lose their privacy.

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Within or Without the Four Walls: An Architectural Reading of Hannah Arendt’s Reflections on the Private Realm

Hans Teerds

Upon arriving at Bard College the day before this lecture, I learned the meaning of the expression “to be spaced out.” I did not know that expression, although “space,” one can imagine, is the core business of my job as an architect. However, “spaced out” is indeed what you feel after such a long day of traveling. I am excited to be back in New York, seeing the beautiful Hudson Valley in fall, to once again enter the beautiful campus of Bard, but also experiencing the exhaustion of the travel itself.

I have to say, I also was a bit “spaced out” the moment I found the question of this conference on my desk and the request to reflect upon that question from the point of view of architecture. Although I regard this question “what do we lose when we lose our privacy?” as one of the most important questions today, I mainly understand it as a question to be addressed by philosophers, cultural critics, anthropologists, computer scientists, and probably science fiction writers. They can reflect upon that, but can architects?

As I have argued elsewhere, the central issue in architecture is “the public realm” rather than the private. The main question today in architectural theory is “what do we lose when we lose our public-ness, the public realm?” Architecture, after all, is the most public of the arts, and it has to understand each material and physical intervention in the earth as “world-making.” As Hannah Arendt writes, “The earthly home becomes a world only when objects as a whole are produced and organized in such a way that they may withstand the consumptive life-process of human beings living among them—and may outlive human beings, who are mortal. We speak of culture only where this outliving is assured.”

If there is a discussion on homes, dwellings, and domesticity within architecture, then it is raised by Martin Heidegger’s 1951 lecture “Building, Dwelling, and Thinking,” in which he somehow argues that the architectural intervention turns anonymous space into identifiable space; and that if you want to build, you also need to be able to dwell (and that it all is very close to being itself). Of course he is very pessimistic about this: modernity has cut through our rootedness, he argues. We are alienated from the space surrounding us. To be “spaced out” is the existential condition of modernity, so

to say. This critique by Heidegger has caused a long range of responses in architectural theory, but that’s not the story I want to unfold at this moment.

In my view, architects deal with the private as much as they do with the public. Architecture contributes to the domestic realm and experience, although I am aware that for Arendt, the private realm and the domestic are not by definition synonyms. How cities are designed, how our homes are related to streets and squares, to the landscape and infrastructure, strongly affects our understanding and experience of the world.

It is important first to reflect upon the actual aim of architecture. What is it that architects do? I think we can describe that in one word; architects discriminate. Architects erect walls in order to create different circumstances, inside and outside, public and private. By doing so, architects turn anonymous space—as Heidegger states—into identifiable places. Architecture, however, is not just the frame or the décor around or at the back of what happens inside or outside. Architecture itself affects what happens as well. Physical space can be prescriptive, or sometimes destructive. It limits and directs, or it offers (new) potentials and perspectives. Architecture also, in itself, is the outcome of social processes. How we organize and design space is a social construct. It tells us much about the structure and functioning of society. As the philosopher Ludwig Wittgenstein wrote: “When we build houses, we talk and write.”

The home, therefore, is one of the key sides of this social organization of space; it tells us a strong narrative about our society today.

A simple account of that narrative of how we build today can be derived from all of the home advertisements—for houses, condos, apartments, and villa—in the Real Estate section of the New York Times, specifically those trying to attract the super-rich. When I attended the Arendt Center for a couple of months six years ago, these advertisements were somehow beyond my imagination. Compared to what I was used to in the Netherlands and Europe, I was stunned by these plans, the layouts of the homes, their numbers of rooms specifically designed for eating, relaxing, watching TV, billiards, a drink, reading, studying, besides of course the number of bedrooms and the walk-in closets.

That’s not new; there have always been palaces for the elite that had this number of rooms and whose layouts would leave other people speechless. What surprised me the most was that every bedroom was also accompanied by a bathroom—the master bedroom even by two, one for him and one for her. What this organization of space tells us about ourselves, our culture, our perspective of privacy, is that we regard the home as a cocoon in which one can be oneself, can act freely, and is free; free, that is, to do whatever one wants to do unseen, undisturbed, and unrestricted, and not even, let’s say,
disturbed by the traces of someone else in the same household, not even by the traces of a spouse. These layouts tell us that we feel the urge to hide the dirt of our body from the rest of our household, and vice versa: we don’t want to be confronted with the dirt and vulnerability of others.

This example is probably more stunning for me because I’m used to the Dutch house, with its large windows looking right onto the street, where people do not shut the curtains even after darkness falls. The story this habit tells is the resemblance with the Calvinistic background of most of the Dutch country, which urges us to show that ‘we’ have nothing to hide: we are crystal clear, we do nothing, not even within the four walls of our private home, that the Lord has forbidden.5

These examples of floor plans of apartments and windows of townhouses actually show that architecture—the way we organize physical space—represents certain ideas about the world. The perspective that arises from the advertisements in the Times is quite opposite to the idea that Arendt proposed in The Human Condition. Today privacy is first and foremost individuality. For Arendt, however, the private realm has a twofold character. It not only has a private character, it also serves as a realm of education, preparation, and recovery. Both aspects need close attention: the private realm is privative, but not in the sense of being alone. The private realm is a world in itself, a world in which one can be oneself, surely, but always among siblings, parents, and so on.

The privative aspect is important: Arendt starts to describe the private realm in a perspective of urgency. It is the realm of the accommodation of intimate things in life, of events that cannot appear in public. What needs to remain hidden for Arendt is clear: the intimate is bound to the biology of human bodies.7 I understand this to be the events of life that are withdrawn from speech. The private realm provides space for the inefable, the issues we cannot discuss or negotiate, or indeed the ones we cannot stop talking about. Those issues need a safe place, not to keep in secrecy, but to assure that they will not lose their depth nor be made into a formula. They need a safe place, amongst family and friends, among personal things and their inherent memories.4 As Arendt argues, a life lived exclusively in the bright glare of the public realm will fade away; it will lose its depth.

At this point it is important to stress the second aspect of the private realm. Acting in public needs the private realm to recover—to re-form, to re-thin—in order to reappear and participate in public again afterward. The private space, to be surrounded by parents and friends, siblings and spouse, a space filled with memories and surrounded by things with personal value is important. As Arendt writes, “These four walls within which people’s private life is lived constitute a shield against the world and specifically against public aspects of the world. They enclose a secure place without which no living thing can thrive. This holds good for human life in general; wherever the latter is consistently exposed to the world without the protection of privacy and security, its vital quality is destroyed.”9

If this destruction manifests itself anywhere, it is in the appearance of homeless people, living like ghosts in the street. Being homeless not only means living unprotected from wind and rain; it means first and foremost not having a safe place to be more or less secure and sheltered, a place to which you can withdraw in order to recharge before reentering the domain of uncertainty and danger.10 If we lose something without a proper place to hide in, it is this ability to act publicly. The homeless are not just fading away in the streets because they lack a stable place in an ever-changing public world; they also lack a place of preparation, education, and recovery.

Arendt therefore stresses the importance of private property. The place one can hide in should be shielded from the shining glare of the public. In the Greek and Roman polis, her main reference in the definition of public and private, private property was treated with great respect. The walls of the oikos, those separating the private property from public space, were attended like sacred spaces.11

Here we are back to my statement regarding the essence of architecture: acts of discrimination. Robert Venturi, the American architect of the extension of the Bard College library, states in his book Complexity and Contradiction in Architecture that the wall is an architectural event par excellence. It is the moment of change, he argues.12 The wall mediates between outside and inside: it articulates this moment of distinction.

The history of modern architecture of the home—that’s the history of the last 150 years—can be read as a history of continuous re-interpretations of this architectural event. The Viennese architect Adolf Loos (1870–1933) might represent a kind of classical position on this. In his work he stressed the changing urban condition. He therefore stressed the wall as the architectural moment between the hustle and bustle of the modern metropolis and the serene sphere of the home. The wall, according to Loos, functions as a zone of protection of family life against the fuss of modern city life.13 Because of the transition of the city, Loos emphasized the outer façade as a thick wall, a real and tangible boundary between public and private that should shield domestic life from the city. He moreover argues that the wall—the shield—should be expressionless and inaccessible: it should not relate to the outer world what happens inside. In other words, the house defends the privacy of the inhabitants against the flux and transience of public life. In this way Loos puts forth Arendt’s point, about 60 years before she stated it.
At about the same time, the Swiss-French architect Le Corbusier (1887–1965), spent more effort in “freeing” the façade from its function of protection. He urged architects to create opportunities to open the wall and connect the public and the private in a fluid way. Moreover, he also tried to design houses without inner walls, trying to see the house as a continuous space in which living room, kitchen, and sleeping room each had its proper place, without being divided by stiff walls—very much the opposite of the contemporary apartments I described earlier. The house, in Le Corbusier’s view, needed to develop into a kind of machine for living.

Most radical in this case are glass houses. Specifically, I’ll mention here the Farnsworth house, designed by the German architect Ludwig Mies van der Rohe (1886–1969). After his flight from Germany to the United States van der Rohe built many skyscrapers and other buildings in Chicago, Detroit, and New York City, all characterized by a steel frame and huge windows, no matter whether they housed apartments or offices. Most radical was his so-called Farnsworth house, a completely glazed house in the outskirts of Chicago. It’s very beautiful, but one was not able to live in that house, the disappointed owner complained. Happily, it was just a holiday home, like most of the great cases in architectural history; nevertheless Dr. Edith Farnsworth was furious. The house was too hot in summer, too cold in winter.

Beyond these practical issues, I also would argue that a completely glazed house could not offer the protection that we experience as comfortable. Although the house is positioned in the midst of a huge garden, far away from the street, and surrounded by a wood, Dr. Farnsworth complained about feeling exposed. A glass house, in other words, even if it is in the midst of nature, denies the human body’s need for protection, not simply from public view, but also from nature itself. Besides that, a house like this can no longer contain the traces of life, the personal belongings that in regular spaces are lying around, and that somehow turn a house into a home.

This is what the private realm is, I would argue: first, it offers protection of the body and private life, and second (but no less important), it offers storage space for the traces of life. The intimate and overwhelming events of life all need to take place in spaces that are filled with our personal history and affinity, our memory and mementos. That’s where we are at home and feel comfortable. I would guess that this is also the reason that most people want to bring some things from home when they are being treated in a hospital: in moments when our existence is threatened, we want to be surrounded by belongings that have meaning for us. As Arendt writes about the French during the Industrial Revolution, they had become masters of the art of being happy among “small things,” within the space of their own four walls, between chest and bed, table and chair, dog and cat and flowerpot, extending to these things a care and tenderness which, in a world where rapid industrialization constantly kills off the things of yesterday to produce today’s objects, may even appear to be the world’s last, purely humane corner.

However, these examples of modernist houses show that the concentration on walls also means that architecture is not only about closing off or opening up, but also about disclosing, revealing, and uncovering the newly created conditions. If the wall divides, we can argue, the window and the door in that wall make connections possible again. They create a new layering of space. If the wall receives and unites within itself the tension between the private and the public, between indoor and outdoor, this tension becomes visible in the window and felt in the threshold of the door. Robert Venturi may have considered the wall an architectural event; the window, threshold, and door go beyond that event. Frank Lloyd Wright knew this, I would conclude from his stunning designs for doors and threshold spaces, windowpanes and canopies.

At the threshold, the essence of the entire architectural construction is concentrated. Not only is the boundary penetrated at this point, it even becomes accessible and can be crossed. It reveals something of what is hidden by decision, and also connects the outside world to the inside world and vice versa. This is where the conditions of indoor and outdoor collide, where public and private meet. If architecture is important somewhere, it is here, at the proper positioning of thresholds.

At this point architecture contributes to Arendt’s emphasis on appearing in public (after also being at home). This crossing makes it possible for humans to be human, as she argues. Being human needs this movement back and forth. We need to come home, and we also need to go out again, in order to appear in public. Arendt offers an argument on this appearance in the world. The safety and security of the home—in Arendt’s words, the darkness of the home—versus the blinding light of the outside world, these two need each other. Although Arendt would take this symbolically, or at least not too literally, I think that we can learn from architecture that this transition is not simply going from one condition into the other. It is a transition that addresses all of our senses in a very basic way, and literally. Indeed, we step over a threshold from outside to inside, or vice versa. Our eyes have to blink momentarily. The sound changes, as do the smells. Our hand grasps the doorknob. Something...
happens to you, write the architects Robert McCarter and Juhani Pallasmaa in their book "Understanding Architecture", when you step inside a space: "An immediate, unconscious projection, identification and exchange take place. We occupy the space and the space settles in us. We grasp the space through our senses, and we measure it with our bodies and movements."17

When moving from the one space to the other, and specifically from the public to the private, all our senses are alert. We feel out the space physically, physiologically, and mentally. We take its measure and taste the atmosphere in a single perception. The space impresses itself upon us. This actually does ring a bell with me: it reminds me of Arendt stressing the importance of sense-experiences, as she investigates in her book "The Life of the Mind. All the senses moved simultaneously, all these sense-data revolving into a grasping of the world, this experience that immediately touches all our senses at once, evolves into a certain sixth sense, our common sense, which assures us of the reality of the entire world. This for me is the importance of architecture as a material practice, specifically in a culture where virtual reality and social media blur the boundaries of public and private. It creates moments of immediate sense experiences, specifically in this very moment of the threshold through which the common world gets tangibility.18

I am not "spaced out" anymore. Architecture has something to contribute to the world as a response to this question "what do we lose when we lose our privacy?" What architecture has to offer is the awareness that privacy is not just an idea, it is also something material and tangible. And these qualities are of the utmost importance in a world that increasingly pushes human beings to live in the glaring lights of governance and virtual reality. In architecture the threshold is a delicate line between closure and openness, between discrimination and connection. This line is important: it offers shelter for personal belongings and secrecy for the intimate events of life. It is a prerequisite for appearing in public or feeling at home. This thin line, the material and sensuous experience of appearing in the world and withdrawing from the world, offered by "threshold-spaces," is irreplaceable, since it addresses the five senses at once. This thin line is in itself a moment of revealing the reality of the world.

3. ibid., 190.
8. ibid., 59-60.
11. Arendt, The Human Condition, 63, 64.
15. Arendt, The Human Condition, 52
Security, Privacy, and the Inner Life

Uday Mehta

Security is a transcendent value in modern political theory and contemporary political life. The primacy of security—with its capacious reach and its ever-proliferating alibis—is in the main of modern provenance. Even though the ancient Greek city-states were often at war, they did not place a transcendent value on security nor did they give it a high political value, in the way they did to speech or reason. The political thinker who most forcefully articulated the centrality of security as a value, which itself mediated other political values, was Thomas Hobbes. When Hobbes said *Salus populi suprema lex esto*, i.e. the safety of the people is the supreme law, he meant *salus as safety*, and not as it had been typically understood, as *salvation*. It is uniquely modern to understand our salvation in terms of our safety. Ever since Hobbes’s brilliant reinterpretation of the human predicament, the safety of the polity and of individuals has become a foundational value. And it remains a fundamental postulate of contemporary political theory today.

The elevation of safety as a political value is important in part because the other liberal values and rights that have emerge over the past two centuries do so in conjunction, or in response, to this stipulated transcendent value of security—both the security of the state and the security of individuals. The result is that other rights and values, like privacy, always have to be balanced against the prior centrality of security.

The balancing of privacy with or against security is typically how the conversation about privacy rights goes. We have this desire for security—security against terrorists, security against foreign powers, security against our neighbors, security against dangerous viruses, the list is endless—and they have to be “balanced” with the right and the desire for privacy, just like other rights have to be similarly balanced. We all, for example, are familiar with the claim that First Amendment rights have to be balanced against security. And so this kind of balancing act is always in play. What it produces is a politics of costs and benefits. Security is one element in that calculus; but it has a very special, and in recent times, an almost determinative, position. Because of its priority, security structures the conversation in profound ways. I want to call it a politics of costs and benefits because I want to set such a calculus against something else, which I will call an ethics of privacy.

In the calculus of costs and benefits, with security on one side, privacy on the other, we have a situation in which lines have to be drawn. I do not want to suggest that the drawing of those lines is unimportant. I think it is very important. So that the lines can be drawn, we need to define the opposing values on each side of the line; thus, things like privacy come to refer to specific acts such as not being observed in one’s home or the right to be left alone. That is how Louis Brandeis and Samuel Warren defined privacy in 1890 in their article “The Right To Privacy.”

When we think of privacy as a right we are immediately in that vortex where there are other rights, of other people. We have to “balance” First Amendment considerations, Fourth Amendment considerations, and national security considerations, all for very good reasons. Once we are in that framework, we make arguments for this or that position, that is, for drawing the line in one place or another. I do not say that there is something completely wrong headed about this way of going about things. I do think that privacy is and should be a right, but I think it is a right anchored in a particular priority that we give to security—to the unity of the state or the nation.

What might privacy look like if one were not operating in the conceptual domain in which security of the state and the security of individual lives were transcendent values? What if one said, “That should not be the starting point the way it is in the Hobbesian perspective. Or to put it in Wittgensteinian terms, how might we think of these issues if we were in a different language game in which we did not think of security as a primary value? What might privacy look like under those conditions?”

The figure that helps us to engage this thought, of what might privacy look like if we were not giving a primary significance to security, is Mahatma Gandhi. Gandhi had the radical—some would say peculiar—thought that we should give up our notion of security and the priority we place on it along with its many implied ideas. He was not at all concerned with the unity of the state or the unity of the nation. He did not care about things like borders, through which we assess our collective security. He did not place a high value, certainly not a transcendent value, on being safe. He would have preferred to have stayed with the original meaning of the term *salus*. What he valued more than anything else was courage.

My question is: How might someone like Gandhi had thought about privacy, given that he did not care about security? We are plainly in a very different terrain about issues like privacy once we give up the notion of security.

Here are some of the things that Gandhi believed: that states should not have any secrets; that there was nothing wrong with people walking into his bedroom; that there was no reason for anyone to knock on his door before entering. This might suggest that Gandhi did not value privacy as we think of it.
I think that is incorrect. What Gandhi did not value was privacy understood as a right—a right that had to be balanced against security. Instead, he saw the right to privacy as just one among other rights, which the state gave you, and which under some conditions did not give you, or gave you partially. He understood that rights were bartering chips that had to be balanced with other rights. Gandhi did not much care for this notion of the right to privacy because, in his view, it had to be underwritten by a warrant from the state, a state that placed a great value on security.

This raises the question: Does Gandhi have any notion of privacy? Roger Berkowitz invoked Hannah Arendt’s valuable idea that what is ultimately important about the right to privacy is that it makes possible an inner life. It gives depth to life. Gandhi certainly believed in an inner life. What he valued, perhaps more than anything else, certainly more than safety, was the importance of life having spiritual depth. But for Gandhi that depth did not turn on not being observed or on being given the assurance by the state that one is safe. "Toward the very beginning—I think in the second paragraph—of his autobiography, Gandhi says, "There are some things that are only between me and my Creator. Those clearly cannot be communicated." And those are the things that he values the most, the pursuits of his inner life.

But Gandhi would never think of seeking protection for those very aspects of his inner life by contracting with the state to ensure conditionally his "right" of privacy. To do so would be to render that right hostage in a calculus of costs and benefits to the other priorities of the state. Instead, in Gandhi’s conceptualization, the state could do very little to invade privacy in the sense that he valued it, as the experience and the possibility of his inner life. For that, an altogether different askesis was required, in which the threat was not from the state but from a dispossession of the self. Gandhi was prepared to give up on his individual security. But in giving up on his security, he did not believe he was giving up on the things that girded his privacy.

Gandhi also did not think that privacy was associated with intimacy in the ways we typically think of it. We think of privacy as a domain that is somehow violated under certain conditions by the presence of others, by the eyes of others, or by surveillance. Gandhi’s conception of intimacy was completely different. It did not turn on this occlusion from others. It did not turn on being in a dark space, or a darkened space that others could not, as a matter of right, enter. It turned in many ways on something altogether different. The inner life was the life of self-searching. It was in this sense more Socratic. The inner life was about understanding oneself, and knowing oneself, and that concern with privacy was not linked to the "right" of privacy.

What might privacy look like if we did not think of it as a right? Once one says, "That is really not what I value," then privacy can look very different. With Gandhi, there was no question that he valued something, which we can recognize as a concern with the self. He valued a particular form of being left alone. That was behind the idea of having a day of silence every week, behind the idea of fasting. Privacy was a way of deepening our relationship to the self. But there could be no such thing as a right to fasting, or a right to silence. If you asked Gandhi, "Is there a right to silence?" he would have looked at you quizzically and said, "I do not think in those terms. What I value is a form of privacy in which something like fasting is personally meaningful." As Gandhi said, the importance of the spinning wheel is that it gives you a sense of the infinity of internal time—whatever that means. I do not know in any clear terms what it means. But it suggests a very profound understanding of the value of something, which, for better or worse, we call privacy; but that understanding is never anchored in the right to privacy.

For the most part, Gandhi did not think in terms of rights, because he understood rights as part of a calculus with the state. His was not a politics of negotiating between different rights: it is to his meaning to think of a kind of ethics of the self that deeply cherished privacy, a privacy that could never be relegated to something conferred by the state.

At the root of the form of privacy I attribute to Gandhi is perhaps a different concept of the self than we typically have today. Gandhi conceived of the self in a peculiar way, one that modern life tends to obscure and to which we only occasional have access. It is a conception of the self in which the self is responsible for itself. The self must create its own depth and seek out the silence that is meaningful to it. For Gandhi that had to do with weaving, with self-discipline, and, broadly, the askesis of self-understanding. Because this self is responsible for itself, Gandhi is in a sense indifferent to what others do, indifferent to whether others come in and observe him, or not. He is indifferent to whether or not people walk into his bedroom. That intrusion does not interfere with the sort of self-searching that interests him.

This view of the self also helps us understand Gandhi’s indifference to the state. He does not believe that the security of the state should hold a high value, so he says the state has absolutely no grounds to impose itself on him. He simply ignores the question of security.

A similar idea of privacy is at work in a letter by Cicero, a wonderful letter about why he liked going to his country estate. Roughly, the reason is that the estate allows him to contemplate nature and the infinite. Virginia Woolf says something similar in A Room of One’s Own. The reason is to explore a self
Will There Be Privacy in the Transparent Society?

David Brin

While philosophers opine over how essential privacy must be, for decent human existence, technology is transforming the territory that determines what is—or is not—possible. Cameras, facial recognition, and innumerable other systems proliferate, forcing us to ask: “Will there be any privacy at all, in the coming transparent society?” Will technology undermine or enhance all the things that make our unique kind of civilization function?

To be clear, my background as an astrophysicist and novelist is a bit different from other speakers at this conference. Further, like many science fiction authors, I aim for wide and deep perspectives in time. Hence, I’d like to ask you to step back a bit. Before inspecting our potential future, turn the other way and consider 6,000 years of recorded history.

There we see one pervasive motif: pyramidal-shaped social structures, in which a few elites dominated over the masses. Hierarchy enabled a few to cheat, dominate, and steal from others. Opportunists seized this approach almost everywhere, because it was in their own interest, letting them monopolize resources and maximize their reproductive success.

Today we live in a different kind of political society—the world’s first diamond-shaped social structure—at least in theory, and certainly more in practice than anything known by our ancestors. That means that to some large extent, a well-off, empowered, and free middle class is unafraid of the rich and outnumbers the poor. Instead of a few at the top, the many in the middle rule, or are supposed to. However imperfectly implemented, this shift from pyramidal to diamond shape has staggering implications, most of which are beyond the scope of this conference.

Limiting ourselves to the theme of this conference, diamond-shaped social structures have huge advantages with regards to privacy. Indeed, the pyramidal societies of nearly all our ancestors had scarcely any privacy at all. Nearly all were dominated by the lord on the hill and his thugs, by those preaching on behalf of the gods, and by the petty bullying of local gossips. Types of feudal overlord-ship varied in detail, but all of them shared those traits. Only our recent society has made concerted efforts toward the desideratum of privacy. Indeed, the word itself is a very recent innovation.

Though our forebears had little privacy, that does not make privacy any less desirable. As soon as average folk were able to get some, they valued it that is concerned with a certain kind of transcendence, with infinity, and with the divine. That self is in some sense less threatened by impingements on personal security by others or by the government. The danger is not that the needs of security are impinging on our right to privacy; rather, it is that we are beginning to forget that we are beings who are capable of going to nature and thinking the infinite. We are so focused on protecting our privacy rights that we have lost sight of the private self that Cicero, Thoreau, Woolf, and Gandhi valued so highly.

One important, and challenging, implication of Gandhi’s approach to privacy is that privacy is possible only if we abandon our overriding concern with security. The notion of security has become so expansive and so fungible that it no longer constitutes anything concrete. It has become a way of being in the world, where we cannot really imagine ourselves without also thinking of ourselves as deeply linked to the various “reasons of state.” We have, as individuals, come to view the world as though we were states; or rather, we are individuals only via our relationship to states. This is in fact quite different from the way Hobbes thought of security. For him, national and individual security meant the violation of national borders or individual bodies. This left considerable room for an inner life. Today there is no determinant conception of what national security means, so the justification of our having to, for example, take off half our clothes every time we go through airport security is at some level national security. For many people this is a perfectly plausible situation. For me, it is too expansive a definition. It allows the rationale of the state and the sort of security it values to go all the way into our souls. Or, it makes our soul just an extension of our body.

Gandhi believed that security, or wanting to be safe, as a transcendent value, was a mark of cowardice. The sort of exploration of the self that he believed made life truly meaningful in an ethical sense, and which he was intensely interested in, could be pursued only by those who had courage and who were in great measure indifferent to safety. Certainly this was true of the life Gandhi himself lived. This thought articulates a different vision of life from what we typically lean on. But in that different vision is nevertheless a deep concern with a privacy that may be more appropriately called, spiritual privacy.
highly. In her essay “The Crisis in Education,” Hannah Arendt says that “everything that lives...emerges from darkness and, however strong its tendency to thrust itself into the light, it nevertheless needs the security of darkness to grow at all.”

But here’s an important point: Hannah Arendt was no nostalgist. She knew about those 6,000 years of gloom and wretched sameness and horror, having experienced the most pathological version, firsthand. Indeed—upon arriving on these shores, she deemed the American experiment, by contrast, to be nearly “paradise.”

Which brings up what I call the “time flow of wisdom.” Arendt appreciated modernity’s gifts of privacy and freedom, and she resisted the notion of nostalgia for some purported past golden age, when privacy and other virtues were purportedly simpler and supposedly plentiful. We are, in fact, the first major civilization to place its images of a better era in a future that we hope to build, rather than a mythologized, fictitiously better past. Still, nostalgia has plenty of allure, even today; we see it in media fables and across both ends of the political spectrum, calling us to resist the complex vexations of a technological age. Nostalgia’s foremost allure is to imagine that without technology we might recover an innocent private life.

Ironically, one of our best methods for making a better world is to fret about those vexing failure modes—ways that improvement might not happen. And here science fiction plays a powerful role. Take George Orwell’s novel *Nineteen Eighty-Four* (1949), perhaps the best example of a self-fulfilling prophecy—the subgenre of dire warnings that are so powerful that they gird millions of people to fight to prevent a scary story from coming true. Orwell was not alone. Rachel Carson, Ursula LeGuin, Octavia Butler, Margaret Atwood and Aldous Huxley all penned influential what-if tales that prompted real-world action. *Soylent Green* (1973) recruited tens of millions of environmentalists. *Dr. Strangelove* (1964) helped to prevent accidental World War III. But above all, Orwell has, for 70 years, equipped us to fight against tyranny of the political age. Nostalgia’s foremost allure is to imagine that without technology we might recover an innocent private life.

Starting with the same metaphor does not always lead to similar prescriptions. If you are conservative, you tend to think that Big Brother is coming from one direction—snooty academics and faceless government bureaucrats. If you’re a person of the left, you envision Big Brother looming from aristocrats and faceless corporations. Both sides have a point. Cheaters will find whatever sector on the horizon is least guarded against cheating; that’s the lesson of 6,000 years. Although I believe one of these directions is currently more dangerous, neither liberals nor conservatives have a monopoly on perceiving—or being somewhat complicit with—Orwellian schemes.

The real conspiracy, if there is one, appears to have been the destruction of our collective ability to say, “Well, I see your point about my side.” If Big Brother lurks anywhere, it is in the ideological conformity required of their adherents by dogmatisms of all kinds. In any case, ever since Orwell, we have Big Brother as a central metaphor for what can happen, if technology empowers new masters of the old, oppressive arts.

### Ironies Abound

Is forewarning sufficient? Not if technology makes an all-powerful state inevitable. The “telescreen” that Orwell portrayed, peering into every space and every life, could empower elites to rebuild that pyramidal hierarchy, this time without shadow or pause. Already, many rightfully fear the approaching era of omniveillance.

I started writing *The Transparent Society* back when I lived in England, in 1987, seeing cameras sprout on buildings and lampposts everywhere in London. Across the following three decades, the trend only accelerated. Every year the lenses and transmitters get smaller, faster, cheaper, more mobile, better, and more numerous, at a rate faster than “Moore’s Law” (the power and speed of electronic devices grows exponentially). Of what use is it, then, to complain about the boxy eyes on lampposts, when next year those eyes will fly, becoming as small and as plentiful as gnats?

There is a double truth. Part One is that we are constrained by technology. Some kinds of future won’t be possible, and among these fantasy realms is any tomorrow that is not filled with eyes and light.

But that does not mean all is lost, or that feudalism is upon us again, or Big Brother. Part Two is that we are not foreordained to a specific destiny by technology; it just means we are obliged to understand the constraints, and then fight for the best future that is still possible. Eyes and light may be inevitable. But Orwellian nightmare does not have to be.

Cameras will get smaller, more powerful, and better connected, not just on buildings but on the lapels and eyeglasses of everyone you pass on the street. And on the inner surfaces of those glasses—even contact lenses—of each passerby will be displayed information about you. Sure, we may agitate and even pass laws to regulate these devices. Perhaps a law will prevent *you and me* from having them. But no law will stop elites from having them.

And that is a key point. Not once in human history did elites allow themselves to be blinded. (Find one counter-example.) The rich and powerful will always find ways to make use of surveillance technologies for their advantage.
Do you recall 2003’s scandal over TIA, or Total Information Awareness? Amid public outcry, that program was “canceled”—though we later learned that it fled to the National Security Agency (NSA). And if you ban the NSA from looking at us? Won’t the technologies and technologists simply move to some better-concealed corner? Do you truly want to play Whack-A-Mole across the next century, as elites improve hiding from us their surveillance methods?

Or might we do better by forcing it all into the open?

This is what our noblest paladins of civil liberties always miss. They are right to fret over Orwellian possibilities. They are right-on to shout the danger of uneven power and asymmetric vision. But they keep talking as if we can fix this by hiding; when in truth, it is simply not possible to keep useful technologies of surveillance from those with the interest and means to acquire them.

(If you doubt me, this is your assignment: Go to the nearest zoo with a pointed stick, climb into the baboon enclosure, and try to poke out the eyes of the biggest baboon. Here’s a hint: he won’t let you. On the other hand, the biggest monkey will grudgingly put up with your looking back at him.)

Elites will see—get used to it. But that does not mean we have to be at the mercy of the powerful. Instead, we should understand the way that technologies of surveillance can empower us all and protect our freedom, by ensuring that light flows in the way it does not flow in Nineteen Eighty-Four—in both directions.

Surveillance is a French word, meaning to look down at people, from above. A new term, sousveillance, should be a rallying cry for our new era, calling upon citizens to look back at elites, from below. Sousveillance is already happening; indeed, it is arguably the core of the U.S. Constitution and the method by which each generation has forestalled resurgent feudalism or hierarchical rule. Extending the technique is where we need to be aggressive, even militant, saying to all elites—corporate, governmental, criminal—we are watching because you are elites, and therefore always tempted (because you are human) to seek more power.

Are you skeptical? Consider this: 2013 was the best year for U.S. civil liberties in three decades. Are you surprised to hear that assertion? All media suppressed that fact, because good news does not fit today’s dominant cultural narrative of pessimism. Bu in 2013 the Obama administration joined with court decisions and declared an absolute and irrevocable American right that, if a citizen is not directly interfering with the police, then that citizen may record the police in public. Until that point, states all over—and cities like Chicago—were passing laws allowing police to seize cell phones and cameras. Establishment of our right to record interactions with authority was an absolutely vital event; for what recourse has any average person, when confronted by overwhelming disparity of force, other than the truth?

Let’s be clear: this right to “sousveillance” or looking back at power, helped lead to the Black Lives Matter movement, whose central chant should be accompanied by another: “Give us more tech!” How about GoPro cameras for all the young men in danger of being rousted, so their hands can be free, instead of holding a cell phone that might be mistaken for something else? Let’s provide lapel cams for all of them, transmitting images directly to the cloud. Already the results of two-way veilence are encouraging: when police are worried about being watched, things change. In fits and starts and unevenly, but they change.

A Trend Spanning the Enlightenment

This use of technology to empower people runs diametrically counter to the main narrative of both the left and the right—that trends, especially technological ones, can only take us downhill. In fact, the recent rise of “sousveillance” is just the latest example of something that’s been going on for 500 years, ever since the invention of glass lenses, moveable type, and perspective. Later generations saw the successive arrival of newspapers and libraries, telescopes and photography, newsreels and radio, television and the Internet. At the most fundamental level, these were augmentations, even exponentiations, of what people can see, what they can know, what they can attend to, and what they can accomplish.

Each of these innovations was met by grouchies who said, “People can’t deal with this. God—or evolution—did not prepare humans to handle this fire hose of information.” And each time transcendentalists said, in contrast, “This will make everyone better because folks will all know more, they’ll have more empathy, they’ll understand the horizons of inclusion and value other cultures.”

Always the grouchies proved right . . . in the short term.

At first, for example, printing presses spread horrible religious hate-tracts that exacerbated the Thirty Years War and rampages across Europe. Eventually, however, people got more books and lo, the transcendentalist optimists proved prophetic; rising literacy did (all too gradually) lead to spreading empathy.

The same progression happened with newspapers, mass literacy, and, especially, when radio and loudspeakers amplified the human voice to godlike proportions. At first, this empowered gifted Svengali-like tyrants to mesmerize populations all over the world. Indeed, only in the English-speaking nations did that era’s Savanarolas of the air—Churchill and FDR—happen to
be on our side. (Or maybe that was our wisdom, in choosing them to be our mesmerizers.) Other than that, the 1930s became a dive into hell… until people got inoculated to that technology and were able to say, “Just because his voice is loud, that doesn’t mean he’s right.”

(Topical remark: Is the preceding paragraph redolent of irony, in light of the 2016 U.S. elections?)

Right now we’re going through another of these generational, technological expansions in the dispersion of information, but this time it is not just a powerful fire hose pouring information, it is more like a tsunami, on a scale never before imagined, and certainly daunting. This time we may, indeed, have reached the limits of human mental absorption. So, shall we emulate the futility of William F. Buckley, who said of the ideal conservative, that he “stands athwart history with a hand out saying, Stop!”

Or, rather than rail pointlessly, like King Cnut, for these info waves to halt, perhaps we would be better served by learning to surf.

But can we?

The next great amplification will certainly challenge us. Earlier I mentioned the evolution of wearable technology from the cell phone systems predicted in Star Trek to Google Glass to the new wave of virtual and augmented reality devices that will again prosthetically expand vision, memory, and attention. If you’re a short person, you’ll gain aerial vision with a gel-stalk cam or a micro drone and never again be lost behind a crowd. About to walk through a dark alley? Send a mini-drone ahead to see what’s waiting, or detect if anyone’s following you home. Want the reputation of this street vendor, or the value of that garage sale item? Want to know why a crowd is gathering across the street? Done. The obvious benefits to these enhancements will be huge; but they also present important challenges. What happens, for example, when the little drones fight each other? But then again, we have that problem with dogs on leashes. We cope. We move on.

Is there another Big Perspective way to view what is happening? The clues are in your purse or pocket. Seriously, your wallet contains ID, currency, credit cards, membership cards, family photos . . . all of them surrogates and prosthetics for reputation and affection. Go ahead, empty it out and find an exception . . . and one thing that could not be replaced— in the years to come— by wearable technology.

We carry reputation prosthetics because we interact with far more people, daily, than we’ll ever personally remember. It used to be that the average human could know roughly 1,000 people over the course of a long life. A really gregarious person? Perhaps 10,000, max. It’s what our brains can handle because that’s what we needed in olden times. You might go from your village with a cart of goods to the local town, and artisans there knew you, hence you would swap a couple of bushels of grain for some horseshoes, or just say, “I’ll bring those bushels next week.” Commerce and livelihood depended on your reputation. This explains why Shakespearean characters fretted so much over theirs.

Soon the wallet will vanish, as the “village” of persons we can deal with will span many billions around the globe. In an era when biometric ID makes you instantly recognizable, then anyone else in this world village can “know” your reputation—not just your ability to pay but how well-respected you are in various levels and types of expertise.

Today, a Russian company is offering a program to search the world’s image files and identify the face in any photo. What good then will U.S. or European laws do, that ban face registries? Fingerprints and voice ID are old hat, when your iris or retina can uniquely say: “I’m me!” Forget DNA scans that you see in sci-fi flicks—too cumbersome, when most people emit a singular, low hum from their own cardrums. We buzz with biometrics, from the ratio of lengths of bones in your hand to your distinctive gait, to the specific array of microbiome bacteria in your gut, which might identify you when you pass a little gas. And soon, we are promised reliable lie detectors, along with quick and easy tests to reveal psychopathy and sociopathy.

Do you find that worrying? You should! Because the potential bad outcomes are daunting. If these capabilities are ever monopolized by elites of any kind, from corporate to criminal to even the most benign, Scandinavian-style government, then we will certainly have Big Brother, forever.

But do you find all this only worrying? Then your reflex consigns you to uselessness, when it comes to helping us navigate a path, maximizing good outcomes and minimizing the bad. Your hand belongs on the tiller only if you can at least try on, for size, the upside possibilities.

Come with me walking down the street of a city in your near future. At the corner of your sunglasses, or in a speck along your hairline you have an invisible lens that scans the face of everyone passing by. And on the inside of your eyeglasses or even your contact lenses, you see everyone embellished with nametags. You’ll never be at a loss for who another person is, ever again.

But then again, we have that problem with dogs on leashes. We cope. We move on.

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will be needed much less, in this era.) Or on the procedures and activities in that government building over there, whose halls you might roam virtually, listening in on meetings while you ride the bus. Or details about that product you are about to buy, including environmental impact information.

And if you can look back? And apply those lie detectors on politicians? Focus those sociopathy alerts on corporate heads? Might that mean Big Brother . . . never?

Yes, all of this will threaten our notions of privacy. Because transparency might have a darker side! Suppose our courageous use of sousveillance prevents any elite from becoming Orwellian, yet we are oppressed by our busy-body neighbors? We’ll get to that dilemma shortly.

The Decision We Face

I’m coming back full circle to privacy because it is important. Ultimately, the chance is zero that the technologies I just described won’t slam into us, carrying a myriad of consequences for well or ill. You may refuse to wear such glasses. You might even talk your neighbors into passing laws against them, in which case elites will have them anyway, and they will walk among us all-seeing, like gods, serene in the comfort of knowing that we cannot look back at them.

Or else, if we wear the next wave of augmentations, we may have to watch as some of our neighbors and loved ones fail to adapt, perhaps by falling into augmented reality video game addictions or other vices, because that’s what technology has always done, ever since we bit the apple: offered us choices, to use the new thing wisely or poorly.

Let’s go back to those villages where most of our ancestors lived, across the many millennia. A modern person would likely find a vast majority of them horrible to live in, and not just because of filth or grinding poverty. Most were dominated by a lord on the hill and by his thugs. But, as we discussed earlier, perhaps worst of all was the local gossip who, along with priests and a para-noid, conformist majority, terrorized anyone different.

Do you think I want a return to village life, just because I wrote a book called The Transparent Society? I’m as terrified as anyone by the prospect of either Big Brother or homogenizing conformity enforced by myriad neighborhood little brothers. And while sousveillance (looking back at authority) may be our only hope against Big Brother, protecting ourselves from judgmental neighbors will call for coveillance: using light to defend our precious, cloistered kingdoms of the personal soul.

As we’ve seen in other talks by Roger Berkowitz and Rochelle Gurstein, Hannah Arendt understood privacy as the protection of those dark places of the human heart where we can think and dream in ways unique to ourselves, where we can develop selves that are divergent and discordant. And again, Arendt deemed this worth defending. The only way we’re going to save these dark spaces of the human soul, when the power to see is going to be so strong, is if we, as citizens, have the sovereign assertive and technologically backed ability to look at our neighbors and say, “I’m not doing anything within the realm of harm that is any of your concern. So mind your own business (MYOB). Get out of my face.”

And can only do this only if we have a movement toward growing public consensus—a sense of shared value—in leaving each other alone for non-harmful things and activities.

Put aside pessimism long enough to notice the good news: we are already acquiring this consensus. A majority of Americans, especially younger ones, agree with a core reaction; that the primary metric for judging others is harmfulness. Across all our struggles for increased tolerance, one criterion prevails: the more we learn about non-harmful minorities, the more we tolerate them. The more we learn about groups bent on harming others, e.g. the Ku Klux Klan, the less we tolerate them.

Now envision our future world filled with light. Sousveillance applied to authority elites has staved off Big Brother, but there remains the problematic possibility of oppression via majority rule, by a 51% mass-conformism. The light of coveillance will not eliminate this danger, all by itself. But if coveillance is accompanied by a general consensus? One proclaiming that it is harmful and nasty not to leave each other alone? Then light could turn out to be the protector of eccentricity and diversity. If you doubt this, then look in a mirror; isn’t that the value system that you hold? Then why contemptuously assume that your neighbors don’t want it, too?

If I sound like a Pollyanna, dizzy with optimism, it is because I am a contrarian. And today, most of my fellow citizens are so snared in an addictive funk of relentless hand-wringing that their best efforts at reform are hamstrung. They have to wake up and smell some of the good news, along with the bad.

We are trying to develop a zeitgeist, a methodology, a way of living with each other in the light; that has to include finding ways to follow Hannah Arendt’s advice, using light and accountability to defend some privacy. Only our ability to use light to deter invasion will ultimately protect a curtilage of being left alone.

Chapter 4 of my book The Transparent Society talks about how important privacy is, but I argue that we are going to have to redefine privacy. The
anonymity of 20th-century urban life was an anomaly. Tomorrow’s version will be closer in, for example, protecting the boundaries of the home. But we also need to recognize that insisting, “nobody may look at me!” will be at best difficult to enforce . . . if not simply quaint.

Consider the core philosophical questions: How can you base your freedom, safety, or privacy on assurances that someone else does not know something? Can you ever verify what another person does not know? How much more verifiable is it, if light empowers you to hold accountable what others may do? Aren’t you yourself more at peace with being judged for your actions, than for the contents of your mind?

The village is returning, in which everyone will know every other person’s name. Technology will ensure this. And yes, nearly all of the old villages of our ancestors were horrible. But we can still choose which kind of village it may be.

In the good village I imagine, folks may know a lot about each other, but eccentricity goes unpunished (if it does no harm), because everyone is an eccentric. And we are heading that way. Nearly all popular films preach suspicion of authority and nearly all movie heroes and heroines appear to display eccentricities; go ahead and start noticing!

This kind of village was portrayed in Andy Hardy movies from the 1930s, wherein knowledge about your neighbors was not to be used against them. You defended each other’s eccentricities and rights because yours depended upon that common reflex. And when the poor family across the railroad tracks was starving, the reaction was, “Hey everybody, let’s put on a [fund-raiser] show.”

Suppose that goodwill fails? If busybodies and gossips start to bully and coerce, in their age-old way? Then I recommend playing that great old Jeannie C. Riley song “Harper Valley PTA.” Give it a listen. You’ll get the point about gumption and fighting for reciprocal accountability.

Many are the perspectives on this problem. Edward Snowden talks about how important privacy is, but his prescription is to limit the government’s use of technology, leaving vague how that is to be done. And when government does what governments do? When they secretly expand their powers of surveillance, shall we pin our hopes on the next Snowden appearing? Another hero riding a white horse? And another?

That is not the methodology of citizenship. I won’t base my children’s freedom, safety, and privacy on the assurances of civil servants or the expectations of heroes. I argue that we must protect those fine concepts ourselves, countering surveillance with sousveillance and coveillance, and power with accountability.

Ultimately this protection will be cultural. We must adapt to the light, but also teach children sensible reticence and respect for the reticence of others.
The Declining Significance of Home: Privacy “Whilst Quiet” and of No Use to Artists or Anyone

Anita L. Allen

Which is more important, privacy or art? In New York City, home to many artists and aspiring artists from around the world, the answer is clear: art. One enters juridical public spaces—say, Times Square—potentially objectified as someone’s art subject (so, the modest or reserved had best go about veiled). Despite traces of “home is castle” discourse throughout U.S. law, under New York State law, one’s actual home—say, the Zinc Building in Tribeca—is insecure and nonexclusive, open to artists by legal rules that elevate voyeuristic, contemporary, fine art photography and videography above what Louis Brandeis called the “inviolate personality.”

Arne Svenson is a fine arts photographer. His photographs have been exhibited in the United States and in Europe. According to New York State court documents, in 2012 a friend who was a bird-watcher gave Svenson a telephoto camera lens. Svenson used the lens to photograph the people living near him in the Zinc Building in Tribeca. The Zinc Building has a largely glass facade, and each apartment has large windows. The vertical and horizontal arrangement of rectangular windows is reminiscent of the iconic paintings of modernist Piet Mondrian. Hiding in the shadows of his residence, for about a year Svenson photographed Zinc Building residents of all ages without their knowledge. He eventually selected some of the pictures he shot for display in Los Angeles and New York galleries: “The Neighbors” first opened in 2013 at the Julie Saul Gallery in New York.

One might suppose that such a project raised major privacy concerns for the artist. Instead, “the exhibit’s promotional materials on the artist’s website stated that for his ‘subjects there is no question of privacy; they are performing behind a transparent scrim on a stage of their own creation with the curtain raised high.” Discounting ordinary expectations of privacy in this mythic, intellectualized disclaimer of voluntarism, Svenson further explained in his own defense that his “performing” subjects did not know they were being photographed, and that he took care to remain in the shadows within his apartment as he shot into theirs. Apparently a reporter for the New Yorker joined Svenson as he surreptitiously photographed some people, including a “little girl, dancing in her tiara; half naked.”

Home as Castle

Though no guarantor of repose, an American’s home is often at the center of their intimate lives. It is a domain culturally marked for the enjoyment of the highest expectations of physical privacy from strangers. The idea of a household whose physical walls define political limits and opportunities came to North America as a transplant of English law, only to be used as ammunition against British colonial authority. A Massachusetts lawyer and inspiration for patriots of the American Revolution, James Otis is chiefly remembered for a five-hour speech he delivered in Boston in February 1761. It was an oration in Paxton’s Case, against the issuance of certain “writs of assistance.” When issued, the writs that Otis objected to would allow British officials broad and long-term authority to enter and search the colonists’ private homes and businesses. Otis asserted in the famous speech that “one of the most essential branches of English liberty is the freedom of one’s house. A man’s house is his castle; and whilst he is quiet, he is as well guarded as a prince in his castle.”

Louis D. Brandeis is famous as the first Jewish member of the United States Supreme Court and for his intellectual role in shaping the jurisprudence of privacy. An 1890 Harvard Law Review article persuasively made the case for a common law “right to privacy.” This rhetorically powerful article, coauthored with his legal colleague Samuel D. Warren, warned against “invasion upon the domestic circle” through business methods and technologies that lead to publication of intimacies and secrets. Warren and Brandeis urged the courts to deter publication in newspapers of gossip and photographs of the sort that “invaded the sacred precincts of private and domestic life” and thereby injured “inviolate personality.” The successful article inspired many 20th-century state courts to adopt the privacy rights against unwanted, highly offensive publications and intrusions, especially those that open up home life to scrutiny. And while New York’s high court has never embraced the full panoply of common law privacy rights that most other states have adopted, it was the first to enact a right to privacy statute, New York Civil Law 50 and 51, creating civil liability for appropriation of name or likeness for trade or commercial purposes.

When it came to articulating the significance of a private sphere in association with the home, no one in the last century except Justice Louis Brandeis himself, in Olmstead v United States, surpassed political philosopher Hannah Arendt in insight about the “sanctity of the hearth.” In The Human Condition, Arendt narrates an ancient history of the Western world, still relevant today, in which we are driven together behind the walls of the oikos by biological wants and needs, our escape into the polis depending upon mastery of households.
of our own that are materially grand enough to define us as persons worthy of participation in civic governance. A refugee to the United States from Hitler’s Europe, for a time Arendt went so far as to oppose mandatory public school integration in Little Rock because she thought the privacy of families meant that the federal government should not interfere with racist educational preferences. Brandeis never thought the privacy of the home was as expansive as all that.

**Quiet**

History remembers James Otis’s venerated pronouncement that “a man’s house is his castle.” But it has tended to forget the qualifier: that a person in his castle is “well-guarded” (only) “whilst he is quiet.” That is, Otis interprets “freedom of one’s house” as both essential and as not absolute. For once a man (or woman) at home fails to be “quiet,” they cannot expect to be let alone by others. They invite entry and intrusion.

As a general matter, this analysis of the privacy of the home makes sense. Imagine that I lean out of an open window at my house and for hours shout obscenities at passersby. Well, then passersby may shout back, throw things at me, or call the police. Who could much blame them? If I persist, authorities are justified in coming into my house to investigate the cause of my antisocial behavior, even taking me to a jail or a hospital. I am not being quiet. I have therefore forfeited the freedom of my house; I have called attention to myself, signaling that I do not want the privacy homes afford.

Or suppose that I throw a party, blasting loud music far into the night. Here, too, the authorities may penetrate the curtilage, come inside my dwelling to check things out. The police would be warranted in coming inside a rowdy house to issue a warning or to break things up for the night. Why is the interference warranted? It is warranted because the occupants are not quiet. By being noisy, one has forfeited the “freedom of one’s house” to which one was presumptively entitled.

But the failure to be quiet in the literal, aural, sense is not the only condition that qualifies the privacy of the home. Otis was surely making a more general point that our Anglo legal tradition calls for strong protection of the home (hence his castle metaphor) but that protection is subject to our cooperative self-concealment, our not being a nuisance to others, and our being otherwise law-abiding (hence the quietude qualifier).

In a free society everyone should be able to expect the freedom of their houses—meaning the privacy of their homes, and privacy while at their home. The Fourth Amendment warrant requirement enshrines such an ideal. Moreover, an international “home is castle” ideal is symbolized by the influential Article 12 of the United Nations Declaration of Human Rights (1945), Article 17 of the International Covenant on Civil and Political Rights (1966), Article 8 of the Council of Europe’s Convention for the Protection of Human Rights and Fundamental Freedoms, and Article 7 of the Charter of Fundamental Rights of the European Union. These decry arbitrary interference with or attacks on privacy, family, home, correspondence, and communications, along with attacks on honor and reputation. “Everyone has the right to the protection of the law against such interference or attacks.”

As in the United States, in Europe a person’s home is supposed to be a “castle.” Parties have appealed to Article 8 in European Court of Human Rights cases to defend a wide range of interests related to homes and intimate life. In the case law of the Court of Human Rights, the term “home” applies to houses, apartments, and other residences. In *Buckley v. UK* (1996), the Court’s majority recognized the mobile trailer of a Roma family as a “home” protected under Article 8 of the European Convention. The Court concluded, however, that Article 8 had not been violated when permission was denied to the assembly of a large caravan. In *Camenzind v. Switzerland* (1997), a leading case concerning search and seizure, the European Court of Human Rights recognized that home searches may be “in accordance with the law,” pursued for aims consistent with the Convention’s tolerance of measures necessary for “prevention of disorder or crime” and proportionate. In a striking judgment of a completely different variety, in *Lopez Ostra v. Spain* (1994), the Court of Human Rights extended the right to the privacy of the home to freedom from environmental pollution caused by a waste treatment plant. The essence of the judgment was that severe environmental pollution may adversely affect the enjoyment of private lives and family health.

While accepting the “home is castle” principle, most people in the United States, Europe and the United Kingdom simultaneously embrace a pragmatic “quietude qualifier.” The quietude qualifier is a cornerstone of the way U.S. law and the judges who interpret it have tended to think about the privacy of the home. Under the qualifier, one no longer merits privacy protection against “interference or attacks” when one either (1) breaches the peace in some way and one’s privacy becomes a danger to society (kill someone and try to hide the body in the basement); or (2) one exposes one’s self, voluntarily, signaling to others that one is willing to be known, seen, heard, smelled, or felt (host a lively holiday party and invite the whole neighborhood).
Not Useful

So far, it sounds like all anyone has to worry about if they want legally protected privacy at home is whether they are “quiet.” But this is not so. In a suggestive analysis, Ken I. Kersch has argued that the American state—different from both the “rural and agricultural” and the “urban and industrial” state—is now a “corporate-administrative” capitalist state, whose success depends on detailed knowledge of who and what it must manage and control.13 According to his theory, anything invisible or in a dark corner is a potential threat or impediment. Granular access to personal life is in the interest of the state; thus we could expect the quietude qualifier to be subject to expansive, permissive interpretations that free the hands of industry and government. What gets defined as harmful to society could come dangerously close to knowing no bounds. What counts as a voluntary waiver or forfeiture of privacy could come perilously close to being considered just about anything anybody does that increases accessibility to another human being, such opening a curtain to get a bit of natural light.

If I want privacy, I have to worry not only whether I am quiet enough, but also whether I am useless enough. No matter how quiet I am, in today’s world, I cannot expect privacy if knowledge about me may be useful to others. In an article in the June 28, 2015, New York Times about U.S. national security laws, the Foreign Intelligence Surveillance Court, and the Obama administration, the author pointed to what he felt is a trend in thinking about surveillance: anything useful to government has come to be fair game; in particular, “because massive sets of metadata are useful . . . they are relevant [to public order], even though they draw almost exclusively on the private lives of innocent people.”15

Is it as bad all that? If my private life is useful to others, does it matter whether I am law-abiding and self-concealed? Does the presumptive status of home-as-castle yield whenever breaching our walls is useful to a government agency, a business, or a fellow citizen with clout? If so, the James Otis of today would be reduced to saying, “A man’s house is his castle; and whilst he is quiet or of no use to government or big business or important people, he is as well guarded as a prince or princess in their castle.” I will come back to this.

A Popular Metaphor in the Law

The home-as-castle trope is in both old law and new: homes are exclusive, secure, and private. (They are also sentimentalized as warm and nurturing.) In the United States, our Supreme Court has issued many important decisions in which the Court stressed the importance of the privacy of the home and the measures that individuals and the state may take to protect it. Justice Louis Brandeis was among the first jurists to emphasize the importance of limiting access to the home and to telephonic communications because of the value of privacy to civility. In 1928 in Olmstead v. US, he warned of the technologies that threatened the home then, and would threaten it in the future: “Discovery and invention have made it possible . . . to obtain disclosure . . . of what is whispered . . . Ways may someday be developed by which . . . it will be enabled to expose . . . the most intimate occurrences of the home.”16

The Fourth Amendment, he felt, was an important constraint on official uses of technology to invade the home. Brandeis is aptly considered a parent of American privacy for his generative role in articulating the need for a common-law right to privacy to protect what he referred to as the “sacred precincts of private and domestic life.” The language Justice Brandeis used in 1928 to describe privacy as a constitutional value in his Olmstead dissent, attacking warrantless wiretapping, strongly echoes the language he used to describe privacy as a general common-law value in the opening paragraphs of “The Right to Privacy” in 1890. In both places he speaks of the importance of “man’s spiritual nature” and of regard for “his feelings and his intellect.” In the Harvord article he observed: “Instantaneous photographs and newspaper enterprise have invaded the sacred precincts of private and domestic life; and numerous mechanical devices threaten to make good the prediction that "what is whispered in the closet shall be proclaimed from the house-tops."

And now we see in the New York law of privacy and art, which I address herein, judges effectively blowing the roofs off of our houses, so that all can freely see what is inside.

Without Castles, without Constitutional Liberty

The opinion of Judge Andrew Jackson Cobb, in the first U.S. State Supreme Court case to recognize a common-law right to privacy in 1906, compared the privacy invasion of using someone’s photograph without their permission in an advertisement to enslavement. Imagine a merciless master dragging his slave into the public streets against the fibers of his will.17

Why does privacy matter? The answer could be put in the form of a counter question: Why does liberty itself matter?

Although the U.S. Supreme Court has emphasized that the right to privacy is not limited to the home as such—it even applies to conversations in a phone booth—its justices have continued into the 21st century in rhetoric...
The Declining Significance of Home

Realism about Homes

Now, we all know that the ideal of the privacy of the home is at odds with reality. Too many people do not have homes at all (look around the streets of Paris or Washington, D.C.), and the condition for people inside the home is not a condition of meaningful solitude or security as a result of sharing, caregiving, or even domination and control. Marriage is considered a private relationship, yet governments require licenses and medical tests, impose age limits, and prohibit polygamous and incestuous marriages. Procreation and childrearing are considered private, but government child-abuse and neglect laws regulate, if at times inadequately, how parents and guardians must exercise their responsibilities. The private sphere can be understood only as a set of entitlements to be relatively free of the most direct forms of outside intrusion, interference and constraint.

The late 19th-century intellectual E. L. Godkin offered a dose of realism, reminding his audiences that privacy of the home was a distinctive product of modernity, and a luxury at that. Private homes do not in fact deliver privacy, but that has done little to curb the romance: As Godkin observed, and as is still true today, “To have a house of one’s own is the ambition of nearly all civilized men and women, and the reason which most makes them enjoy it is the opportunity it affords to decide for themselves how much or how little publicity should surround their daily lives.”

In an 1898 book, Women and Economics, the utopian feminist Charlotte Perkins Gilman took on the myth of homes as intimate havens. She explained that the level of privacy and intimacy a person is able to enjoy at home depends not only on the architecture of the home and the ability to avoid the attention of newspapers and gossips, but also on the responsibilities, personalities, needs, ages, and genders of a home’s co-inhabitants. Rather than reject the home, Gilman proposed changes in domestic organization and the status of women to better realize the “fond ideal” of the family home. Her beef was not with “loving home” but with the perpetuation of a certain “kind of a home and in the kind of womanhood that it fosters.”

Declining Significance of the Home

We may need the “fond ideal” more than ever. Government and private sector surveillance cameras line the street. The internet-linked cameras of friend, foe, and stranger are ubiquitous. Employers monitor us, online and offline, throughout the workday. Group life is all about homogenizing consumerism
and celebrity. If not privately at home, then where can the inviolate personal-
ity grow and renew itself?

The castle metaphor and myth lives on in constitutional jurisprudence
and ordinary life. So does the quietude qualifier. But important questions,
suggested by recent legal disputes implicating state privacy law, ask how we
understand the condition of quietude that should protect us from interfer-
ence or attack. When is a person in her home really protected from assaults
on privacy? In the age of social media, revenge porn, metadata collection, big
data, and the “internet of things” that even has our thermostats, televisions,
ranges, and refrigerators online and speaking to the outside world—what
kinds of privacy of the home have we not forfeited?

Useful to Others

State privacy law is telling us that being quiet doesn’t matter if we are useful to
business, government, or other people. A family, the Borings, lost a tort case
in which they claimed that Google Street View, by coming onto their secluded
private road to photograph their house and post the image on its popular
website, invaded their privacy. They eventually won a pitiful $1 award on a
trespass claim against Google, but they lost their privacy case and an appeal.
With respect to the Boring’s privacy intrusion claim, the court found:

No person of ordinary sensibilities would be shamed, humiliated,
or have suffered mentally as a result of a vehicle entering into
his or her ungated driveway and photographing the view from
there. . . . Indeed, the privacy allegedly intruded upon was the
external view of the Borings’ house, garage, and pool—a view
that would be seen by any person who entered onto their drive-
way, including a visitor or a delivery man. Thus, what really seems
to be at the heart of the complaint is . . . the photographic image
captured at that time. The existence of that image, though, does
not in itself rise to the level of an intrusion that could reasonably
be called highly offensive.26

Though engaging in lawful activity, the Borings are no more entitled to
privacy with respect to the curtilage of their Pennsylvania home than would be
the pot growers whose marijuana garden is visible to police from an airplane.
We are at the mercy of what our courts will deem highly offensive to a per-
son of ordinary sensibilities. Who is that person? It could be the opportunistic
straight guy in an intolerant community. In a Mississippi state law case from
the late 1990s, a gay woman brought an invasion of privacy suit against the
ex-husband of her lover. The ex-husband crept up to her home, peered in
her bedroom window, retrieved a camera from his car, and took photos of her
intimate contact with his ex-wife. Remarkably, the lesbian in her supposed
castle lost to the peeping Tom. The judge wrote:

In the present case, Michael did want to file for modification of
child custody. However, he had no proof that there actually was
lesbian sexual relationship, which could be adversely affecting his
minor child. In order to obtain such proof, he went to the cabin,
peered through the window and took pictures of the two women
engaged in sexual conduct. Three pictures were actually devel-
oped which were of Plaxico in a naked state from her waist up in
her bed. Michael believed that he took these pictures for the sole
purpose to protect his minor child. Although these actions were
done without Plaxico’s consent, this conduct is not highly offen-
sive to the ordinary person which would cause the reasonable per-
son to object. In fact, most reasonable people would feel Michael’s
actions were justified in order to protect the welfare of his minor
child. Therefore, the elements necessary to establish the tort of
intentional intrusion upon solitude or seclusion are not present.27

These two cases illustrate that that even when we are being quiet, our castles
are not necessarily protected by law. A big company like Google, or our lover’s
small-minded ex, can get away with using us for their own purposes. Artists
can use us for their purposes, too, a point illustrated by Foster v. Svenson.

Appropriated for Art

Some of the Zinc Building neighbors, the Fosters, brought a lawsuit against
Svenson, on the ground that their family members’ privacy rights under a
Brandeis era New York law had been violated. New York Civil Law Sections
50 and 51 make persons civilly liable for the appropriation of others’ names
or likeness for commercial or trade purposes. The Fosters managed to con-
vince Svenson to remove certain photos of their children from his exhibition.
But they lost their court case completely, and lost again on appeal. The judges
ruled against them on the law, unanimously. Neither taking the pictures,
exhibiting the pictures in a gallery, nor advertising the exhibition and availability of the pictures for sale was an invasion of privacy under the statute:

Defendant’s used [sic] of the photos falls within the ambit of constitutionally protected conduct in the form of a work of art. . . . Indeed, plaintiffs concede on appeal that defendant, a renowned fine arts photographer, assembled the photographs into an exhibit that was shown in a public forum, an art gallery. Since the images themselves constitute the work of art, and artwork is protected by the First Amendment, any advertising undertaken in connection with the promotion of the artwork was permitted. Thus, under any reasonable view of the allegations, it cannot be inferred that plaintiffs’ images were used “for purpose of advertising” or “for purpose trade” within the meaning of the privacy statute. . . . [D]efendant’s conduct, however disturbing it may be, cannot properly, under the current state of the law, be deemed so “outrageous” that it went beyond decency and the protections of Civil Rights Law sections 50 and 51. To be sure, by our holding here—finding no viable cause of action for violation of the statutory right to privacy under these facts—we do not, in any way, mean to give short shrift to plaintiffs’ concerns. Undoubtedly, like plaintiffs, many people would be rightfully offended by the intrusive manner in which the photographs were taken in this case.28

Other voyeuristic artists have turned neighbors into objects for their own purposes in violation of common privacy expectations. Video artist Michel Auder has captured images that include a woman emerging from her bath— the very thing Justice Scalia marked as a special concern in Kilo. Auder has likened himself to one of those nature documentarians shooting beasts in the wild.29 Privacy just is not a meaningful concern when you can get some really interesting shots of apes, lions or zebras living naturally unaware of observation. The same is true of putting a camera on people. Yet people are animals with iniviolate personalities, spiritual natures and religion.

Artist Philip-Lorca diCorcia prevailed in a suit against a religious Hassidic Jewish man photographed as he walked through New York’s Times Square between 1999 and 2001.30 Erno Nussenweig’s captivating photograph had been included without his knowledge or consent in an exhibition, “Heads.” In an amended complaint, Mr. Nussenweig explained how the display and sale of his photograph violated his religious faith and the Biblical ban against graven images. The court utterly dismissed the considerations of the photographic subject’s religion or personal values as irrelevant under Sections 50 and 51. Under the court’s interpretation of the law, the central issue was whether the photograph was used without permission for trade or commercial purposes not incidental to its status as art.

I know that many people who hear about the Svenson case will quickly side with the artist and the New York courts. Although photography was not always considered a fine art, we have grown accustomed to the assumption that the genre is an exceedingly important branch of serious contemporary art. The point of photography may be, as in the case of Abbas, to profoundly probe our understanding of religion, conflict and terror.31 Some will argue, in defense, that the point of the works of Svenson, Auder, and DiCorcia referenced here is precisely to interrogate the public-private distinction by violating boundaries already dissolving in urban life. To punish artists with liability would be an assault on the artist’s freedom of inquiry.

Yet, it is worth considering that deep and provocative interrogations of public and private do not necessitate felt privacy invasions. Van Gogh interrogated that distinction a hundred years ago by painting pictures of his bedroom. And artists have been painting and sculpting vaginas for centuries.32 We get it. The private is beautiful, interesting, dangerous, nasty, depressing, forbidden. Do the ends of art justify the means of using living, breathing people, unwittingly? Does every ethical boundary have to be crossed?

Another line of defense also has weaknesses. You can’t have an expectation of privacy if you stand in an open the window, it is argued. The Zinc Building neighbors chose to appear in front of open windows, albeit above street level, where they knew they and their children might in theory be observed standing, squatting, reclining, running, caregiving, and so on. By this analysis, the residents were not “quiet”; they called attention to themselves. The social norms that they assumed would confer castledom on their glass houses proved illusory.

A graduate student I encountered at Cornell’s School of Criticism and Theory offered a twist on the argument that the Fosters brought this problem on themselves. She observed that the “privileged, rich” people living in this chic glass apartment building purchased the right to be seen conspicuously consuming Manhattan. The joke is on them that someone dared to take the photographs they assumed no one would dare to take of people like them, the non-slave class. Why should we (or the law) care about an affront to such privilege? Why should we care that the rich can be exploited, used, dominated like the rest of us?

The graduate student’s clever write-off cannot be correct, however. Glass architecture and big windows are indeed luxury items. But acquiring them...
does not, in fairness, end the purchaser’s entitlement to residential privacy, sunshine, and fresh air. Furthermore, the Zinc building is not exceptional by today’s architectural standards. My effort to find it led me to discover similar dwellings along Manhattan’s Highline. Enjoying light from within an apartment in a city cannot be deemed an utter forfeiture of expectations of privacy. When was that forfeiture made the social or ethical norm? That it is not the social or ethical norm is what makes Svenson the kind of bad boy artist willing to exercise power over others to gain the edge the art world loves. We might do well to focus on the ethics of power grabs, rather than the ethics of standing in front of a window in one’s residence.

The Foster neighbors lost their case against Svenson because they were useful to Svenson. The neighbors were useful to Svenson in the production of art qua art and art qua commodity. Erno Nussenweig was useful, too; but then, it seems to matter that he was photographed in Times Square and not spied on at home.34 The Borings were useful to Google in the production of a commodity, Google Street View. Plaxico was useful to Michaels in the preservation of heterosexual privilege. Home-as-castle says homes are private, exclusive, secure. But homes are not private, not exclusive, not secure if the lives inside are deemed not quiet and are quite useful to the right people and institutions.

People like the Svenson neighbors, the head shots in diCorcia’s exhibition, the Borings, and Plaxico are to differing degrees dragged out of their homes and made subject to the gazes of others. Privacy invasions can feel like, and be, coercive limits on liberty. The victim of a commercial appropriation of identity is like a slave to a merciless master.

Why does privacy matter? It is the opposite of slavery. The characteristic activities of the household (Hannah Arendt offered an enlightening account) carry the aura of appropriately private activities, even though the modern state can respect no impervious boundary at the threshold.

Collective welfare sometimes justifies incursions into home life. Yet opportunities for privacy are vital for personality, character, reputation, relaxation, creativity, reflection, civility, and intense intimate relationships.35 Privacy affords groups of like-minded individuals the opportunity to plan undertakings and live in harmony with their own preferences and traditions.36 Respect for privacy is, in many ways, respect for human dignity itself. Moreover, because self-governing communities benefit from the psychological well-being and independent judgments of their members, privacy is distinctly a social good.37 The liberal democratic way of life requires public policies that are mindful of the subtle and cumulative threats to privacy—including fine art photography.

In an increasing variety of ways, our lives are being emiped of privacy, especially physical and informational privacy.38 Liberal government will have to proscribe and regulate data collection, disclosure, publication, and retention in the interest of preventing cumulatively harmful diminutions of the taste for or the expectation of privacy. If we care about Brandeis’s ininvolate personality and meaningful liberal democracy, our courts are well advised to make sure that the excuses for interfering with the privacy of the home identified in this essay—the “unquiet” excuse and the “useful to others” excuse—are kept in check.

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1. Foster v Svenson, 128 A.D.3d 150 (N.Y. App. Div. 1st Dep’t 2015), Decided on April 9, 2015, New York Supreme Court, Appellate Division, First Department, Renwick, J.
3. Foster at 153.
4. James Ott, Oration in Pozsum’s Case Against writs of Assistance (Boston, February 1761).
9. Ibid.
10. I refer to Arendt’s infamous essay “Reflections on Little Rock,” in which she argued against mandatory school desegregation on ground that schools are extensions of the private family. Cf. https://lapa.princeton.edu/content/hannah-arendt-and-little-rock.
Are There Limits on Government Surveillance?

Ben Wizner

In 1971, a group of antiwar activists broke into an FBI field office outside of Philadelphia. They called themselves the “Citizens’ Commission to Investigate the FBI.” They stole all of the files. They put them into suitcases and drove them to a safe house. They put on rubber gloves, looked through the files, and then mailed them off to various newspapers, including the Washington Post, which ultimately published these secret documents that revealed extraordinary and very controversial domestic spying operations aimed at antiwar groups, black student groups, and other dissidents from Nixon’s America.

One of those documents had a word in the corner, COINTELPRO. The activists did not recognize the word, but over time, inquiry into COINTELPRO (COunter INTELligence PROgram) began the process of unraveling the full extent of the FBI’s illegal domestic surveillance operations, and launched the first national debate about necessary limits on surveillance in free societies.

Now we’re in the middle of a second substantial debate about these same issues, this one initiated by Edward Snowden’s disclosures to journalists. Some of the parallels between the two episodes are obvious on the surface. Both debates began with dramatic acts of lawbreaking—lawbreaking that paradoxically ended up revitalizing democratic oversight. In both cases the surveillance practices that were revealed were justified as necessary responses to a war. Under J. Edgar Hoover it was the Cold War, and under George W. Bush and Barack Obama, post-9/11, it has been the so-called Global War on Terror. Both of these episodes involved larger-than-life government bureaucrats. Hoover became the director of the FBI at the ripe young age of 29, and held that position for half a century.

You may be less familiar with General Keith Alexander, who ran the National Security Agency (NSA) until quite recently. General Alexander is an extraordinarily skilled bureaucrat, and I use that term non-pejoratively. He really understood how to use the levers of his own power in order to aggrandize his agency and get more authority. A reporter named Shane Harris wrote a remarkable profile of General Alexander in Foreign Policy Magazine. According to Harris, Alexander’s strategy about information was to “collect it all.” This was a kind of mantra for him: “We’re going to collect everything we can, and the authorities and the budgets will follow.”
General Alexander named his headquarters the Information Dominance Center. According to Harris,

[It] had been designed by a Hollywood set designer to mimic the bridge of the Starship Enterprise from Star Trek, complete with chrome panels, computer stations, a huge TV monitor on the forward wall, and doors that made a whoosh sound when they slid open and closed. Lawmakers and other important officials took turns sitting in a leather captain’s chair in the center of the room and watched as Alexander, a lover of science fiction movies, showed off his data tools on the big screen.

This was how Alexander both intoxicated and threatened those who were supposed to be doing oversight. We know that Hoover’s threats were crude. In Washington he was understood to have a dossier on almost everyone in power, with the implicit threat of blackmail if you were to go up against him. Alexander’s methods were less vulgar. He made clear to lawmakers that if they voted against the NSA on a question of budget or authority, the finger would be pointed at them if a terrorist attack occurred.

Both of these episodes led to what might be called “constitutional moments”—a moment when there is a broad consensus that government practices have outpaced democratic controls. The Hoover-era domestic surveillance abuses resulted in part from what came to be seen as a glaring loophole in the Fourth Amendment. The prevailing doctrine held that when government agents were conducting surveillance for “intelligence” purposes, rather than for criminal investigatory purposes, the Fourth Amendment simply did not apply. Under this foreign intelligence exception, the three-letter agencies in the United States opened up files on hundreds of thousands of U.S. citizens, virtually none of whom had any connection to foreign intelligence operations.

The Fourth Amendment gap that the NSA scandal has revealed is that the government has essentially allowed capability to dictate practice. For the first time in human history, it is both technologically and financially feasible to collect and store billions of communications every day—and the NSA has been doing precisely that. The government then developed the post hac legal rationalization that it could collect and store anything without legal restraint; the law would come into play only when a human being queried a database in search of something specific.

We know that they were collecting the metadata from all of our phone calls, but nothing in their legal theory would have prevented them from collecting the content of all of our phone calls or even putting video cameras in all of our homes, so long as an individual did not look at it; for that, they needed some other kind of permission.

Some people will object to the comparison of Alexander to Hoover, and those objections have some validity. Certainly there is a significant difference between a secret police chief who targets political enemies and threatens to blackmail civil rights leaders, and one who oversees the passive and indiscriminate collection of billions of records. But technology has liberated our spy agencies from Hoover’s vulgar methods. Today agencies can collect everything without having to make those targeting decisions now; they still can make them later.

While I worry about the use of new technologies in surveillance, I want to make two quick points about technology, both of which I think lead to the same conclusion. The first is that technology is neutral; there isn’t any surveillance technology that is necessarily pernicious. Take something really creepy, like surveillance drones. I think even most Americans who claim not to worry about surveillance don’t really like the idea of drones flying over their cities all the time and recording everything. But that same drone might be a valuable weapon of human rights if we could fly it over a conflict zone in South Sudan, or of police accountability if we could fly it over a place where police violence is occurring. The technology itself is neutral.

The second point is that surveillance technology has become too inexpensive. Ashkan Soltani has written a great article about how the relative cost of surveillance has plunged so much that where governments formerly had to make resource-based decisions about whom they would follow, now they don’t. If 20 years ago my local police department wanted to know where I was over an extended period of time, teams of agents would have had to follow me, around the clock, at great cost. Now any police office in America with a laptop can tap into a database with one of the phone companies and get this information about all of us over months and months.

Let me give one example of our Supreme Court confronting this question. In 2012 the U.S. Supreme Court heard a case titled US vs. Jones. Jones was a suspected drug dealer in Washington, D.C. The police or FBI had gone under his car and attached a physical GPS tracker. Over 28 days they tracked his movements and then they used that information to convict him. This question went to the Supreme Court: Did they need a warrant to do that?

The government was amazed that this should even be a question. How could you possibly have a constitutional privacy interest in where you drive your car in public? It would be so simple for anyone just to follow that car
Should we worry about this world of collection? The security technologist Bruce Schneier puts this very well: "When you’re driving and a police car pulls up alongside, how does it make you feel? Do you feel safer? Do you feel more secure? How would it feel to have that feeling all the time, to feel that way constantly?"

Imagine the entity there to protect you, always right there. That is the world being built by spy agencies and others. It presents a totally different set of challenges. Our challenge is not just to sit by and allow it to be built.

The Court decided differently. All nine justices ruled that it was a Fourth Amendment search, but five justices said this: while we know that we can be followed to the liquor store or the hospital or church, we don’t go around assuming that our movements can be tracked with granularity over a month-long period, and that this tracking can reveal all kinds of information about us, and in fact does. So we do, and we should have, a reasonable, constitutionally protected privacy interest in not being tracked like that over time unless the government can get a warrant from a judge.

Does that make the law more complicated? I don’t think so; it just requires that given the ease and low cost of surveillance today, the government must be required to seek a warrant in a situation where perhaps it wasn’t required before.

What this means is that we will need rules governing surveillance where perhaps we didn’t always need them before. It may be that our principal protection against this kind of tracking in the past was not law, but cost; now cost puts up no barrier. And even storage, which used to be quite expensive, digitally is now practically free. It’s now possible for governments to track almost all of our actions, communications, and contacts, and store them forever at really, really low cost. So we have to make normative decisions that are enforced in law about what the limits should be on that. And we may need things like warrant requirements where we didn’t have them before to protect us against abuses. That’s how I think technology has complicated the picture.

In conclusion, I think we need to be concerned about government surveillance. The question I’ve been asked is simple: Are there limits on government surveillance? Yes, of course there are limits. The limits on the NSA’s practices right now are in hundreds of pages, thousands of pages, of arcane rules. The question is, how confident are we in those rules when the agency is engaged in the kind of voracious collection practices that it is? How robust are those rules going to be in the face of a terrorist attack or another war? Tomorrow Scott Horton, who’s sitting here, is going to interview Robert Litt, who is the chief lawyer for the director of National Intelligence. One of his emails was leaked to the Washington Post a few weeks ago in which he lamented that his side was not winning the policy debate, but suggested that the debate might shift if there were another terrorist attack. He was being honest. But that is actually the way that the intelligence community thinks. The “Patriot Act” was written before 9/11, not after.
Privacy and Surveillance: A Perspective from the Intelligence Community

Robert Litt and Scott Horton

Robert Litt: I want to begin by talking a little about how the intelligence community views the issue of privacy. You have to understand at the start that the intelligence community is made up of people just like the people in this room. They’re parents, they’re children. They all care about their own privacy as well. In fact, by and large they tend to run toward the libertarian as a whole. I don’t think anybody would disagree on the importance of privacy and the necessary values that it preserves for the individual and society alike.

But privacy has never been an absolute. The difficult question comes when you try to figure out what you can do to achieve other social goals that are also important. I think that everybody would agree that a principal goal for a national government is to protect its people; and not only to protect them in the sense of airplanes flying into the World Trade Center, but also to protect them from hostile powers who may have adverse intent in a variety of ways.

I agree it is a mistake to refer to this difficult question as a balance, because that implies that in order to increase security, you have to decrease privacy, and the other way around. I think the challenge is how best to protect both privacy and security at the same time.

That challenge inevitably involves a certain number of trade-offs. For example, we allow police to enter your house with a warrant. We would have more privacy if that were not allowed, but we accept it as an appropriate way to achieve security with a minimal intrusion on privacy.

How has this worked in practice? I’ll give as example the so-called mass surveillance program, under which telephone metadata was collected. It’s not true that everyone’s e-mail was collected. This program involved only telephone metadata, which is the number calling, the number called, and so on. It’s the same information that your telephone company keeps when you make a phone call. Before this program existed, telephone companies kept this record, and the government could get this information with a subpoena in a criminal case.

For a variety of reasons, an intelligence gap was identified after 9/11, and it was felt that this gap could be filled if the data were collected by the National Security Agency and queried. The important thing to understand is that this data sat at NSA, and while, unquestionably, a whole lot of things could be done with this data, nothing of that sort was ever done with this data. It was strictly limited, strictly controlled, and in terms of the actual impact on anyone’s privacy, it was no different from the old regime, or the regime going forward, where you serve a subpoena on the telephone company and you get those records when there’s an appropriate basis.

The point I want to make from that is that when people talk about privacy, it is important to look at the actual impacts on privacy of government activities— not the theoretical impacts.

Let me give you another example: Edward Snowden made reference to an incident where, supposedly, every phone call in the Washington, D.C. area was intercepted for a couple of days. That did happen, and the reason it happened was that somebody made a typographical error and inserted an area code when it should have been a country code. Instead of collecting calls in a country code, they were collecting phone calls from people in Washington, D.C.

What happened? After a couple of days the NSA discovered this. They stopped it, they reported it to the court, and they eliminated all the phone calls. No one ever saw them. Something that begins by sounding like a horrible intrusion on privacy actually turns out not to be.

There has not been any showing of the kind of abuses, of attempts to oppress people, of seeking out political dissidents that should be worrisome.

I want to end by saying that that where we fell down—we meaning the intelligence community—is in not communicating in the kind of broad, general sense what Mr. Snowden was talking about, the broad outlines of the programs we operated. And a number of people made reference to this earlier.

Some of those programs we did communicate about. But this one program in particular was not effectively communicated. There were people within the government who thought it should have been communicated, and, looking backwards, everyone feels that had we had an opportunity—had we taken the opportunity to go out and educate the public about it in a sort of more neutral fashion, it probably would have been a lot less controversial. But that’s water over the dam now.

The problem the intelligence community faces is that politically, we are in, essentially, a zero-tolerance environment. My boss likes to say that there are two types of events in the world: intelligence failures and policy successes. Every time something bad happens, the finger is pointed at the intelligence community. A pendulum swings back and forth in the public’s view of the intelligence community between, “You mean you’re doing what?” and, “Why didn’t you protect us?” That pendulum is going to swing again, so the question is, what can we do now to put ourselves in the best possible position so that, while being respectful of privacy and protective of privacy, we’re still also protecting the American people?
Personally, I think that technology has a huge amount to contribute here. When people talk about technology in the context of surveillance, it tends to be either, “look at the awful things NSA can do with technology,” or, “look at how we can protect ourselves from the NSA with technology.” I think there’s a third aspect to the discussion: How can technology give us, the public, some assurance that the powers that the intelligence community has, and needs to have, are not being abused?

I believe that systems can be set up in some very creative technological ways, for example, not only to limit access, but also to insure that only proper queries are made, and that only the appropriate people get the information. A lot of work needs to be done in that area so that people have a better understanding of what the NSA does, not at the level of who’s being targeted and what systems are we targeting – the kind of operational thing that, if revealed, can and has caused damage – but at the general level of what are the types of things that we’re doing to protect the people.

I’ll stop now and let Scott ask some questions.

Scott Horton: Thank you, Bob. I want to start by connecting this back to Hannah Arendt. At this conference we’ve heard about Arendt’s approach to privacy through a number of different writings about the human condition—her writings on totalitarianism, her Little Rock, Arkansas, essay. We’ve now reached the stage in the conference where another set of writings has to be brought in—the way Arendt approached whistleblowers and national security issues.

That comes up in particular when she was invited by the Association of the Bar of the City of New York to address the Pentagon Papers case, and she gave a very interesting address, which is reproduced in Crises of the Republic. I think it probably left most of her audience puzzled, because they would have expected her to come out swinging against Nixon and the Vietnam War. Although I think she didn’t like Nixon and didn’t like the Vietnam War, that’s not really what she was interested in and what she addressed in this piece. She wanted to look on a much deeper level at the question of state secrecy and the role that was played by whistleblowers and national security issues.

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She started out by talking about the ancient concept of state secrecy. She reminded us that the term was arcana imperii, which is usually translated as state secrets. It actually also means mysteries of empire. And that’s not coincidental, because when you trace this idea back, it had to do with the specific power and the authority of the emperor. This authority was something beyond challenge in any way, and it was meant to make the emperor mysterious, powerful, beyond attack. Arendt described the origins of that, how it came up under Roman law. It’s a system that made perfect sense for an empire, but it didn’t necessarily make a lot of sense for a democracy. Democracies have this inherent tension between the idea of secrecy and the idea of popular decision, popular deliberation. Important for Arendt on this score was the Pericles oration, in which he specifically derides secrecy. Secrecy is something that tyrannical governments think of, Pericles says, not us. We Athenians pride ourselves on being open. We let visitors enter our city and inspect everything. We’re not afraid that they will uncover our military tools and techniques. We rely on our bravery.

RL: That didn’t end well for the Athenians.

SH: To the contrary, it did. But that’s something we can argue about.

In any event this was, in Pericles’s view, a strong point. Secrecy was associated directly with cowardice. What Arendt came back to in the end was a strong sense that the American system somehow works. Not because of the secrecy regime—there she embraced the view that the German sociologists took that national security, bureaucracies, used secrecy to build their own power, authority, and budgets, so you have to be very skeptical of it. You shouldn’t readily accept this secrecy. Yet, to some extent, there is a legitimate role for secrecy.

And how do you balance or offset secrecy? Not through regulations or laws or anything of that sort, but through a process of public dialogue. There Arendt looked at the Pentagon Papers, the fact that information came out, that it was spread through the newspapers with critical analysis, that this spurred popular debate. Her view was, the political system rights itself in the end, and the people have the opportunity to have input in the key formation of policy.

The people don’t have a right to know every single tactical deliberation and consideration—the government has a good reason to keep a lot of this secret; but the people have the right to be involved in the formation of policy and to have enough information to participate. In the end Arendt came out with a pretty positive view about that, but her focus and major concern was on that policy formation process. The people have enough information, they’re able to have input, and the policies are decided through a democratic process of some sort.

That brings me back to the point that Edward Snowden raised in his talk: this report that appeared in the Washington Post that referred to an e-mail in which you noted that the legislative environment is very hostile today. It could turn in the event of a terrorist attack or criminal event where strong
encryption can be shown to have hindered law enforcement. You’re essentially saying, as I interpret it, let’s keep this in our breast pocket and bring it out at the right point when the environment’s more favorable; and perhaps not when there’s a calm, dispassionate, and detached review, but one that can be pushed through the system very quickly. Is that doing justice to democratic process? Or have we misunderstood your email?

**RL:** I want to start by saying that I make a practice never to comment on leaked documents. A student here asked a question that I thought deserved a better answer than it got, about the importance of privacy for government deliberations. I feel very strongly that government officers and employees need to be able to consult each other freely and talk among themselves, honestly and candidly, in order to get the best deliberations possible and the best decisions. I completely agree that when final decisions are made, when policy is made, that needs to go out to the public. But I think it is very corrosive of the democratic process to have internal deliberations leaked by people with agendas and in a frequently misleading fashion, for the purpose of influencing those deliberations through the process.

Having said that, I will add that one could give an alternate reading to an email that said something like that, with reference to the pendulum I mentioned. That reading would be, not that one should lie in wait to seize upon a populace that has lost its mind, but rather that the political dynamic within the country—one with a representative government—may change at some point in the future.

**SH:** But if you have the legislative proposal in hand right now, why not put it forward and make the public argument for it?

**RL:** There’s an assumption in your question that may or may not be accurate, and I put it as a hypothetical. Lots of legislative proposals float around the U.S. government. Many of them are colossally stupid and do not see the light of day because other people tell the drafters that the proposals are colossally stupid. There is a process within the government by which the government makes decisions on whether or not to seek legislation. If the executive branch determines that it doesn’t want to seek legislation, then other people can put forward legislation. But the executive branch should not be compelled to put forward legislation that it has no interest in supporting.

**SH:** I guess the spin that the prior speaker [Edward Snowden] put on all of this was that this is sort of a power grab by the national security elites; that they’re very eager to get legislation that gives them broad discretion, discretion that’s unreviewable, with greater powers all the time, increasing their power and influence and leaving it unchecked in the democratic process. Is that fair to say, or unfair?

**RL:** I think it’s unfair. I think it’s also the case that I’ve never seen the prior speaker in any policy discussions at any level of the government, so I don’t think he knows what is motivating the people in these discussions.

**SH:** Let me say that one other comment he made was this: “Truth and courage should matter in politics.”

**RL:** It’s impossible to disagree with that.

**SH:** And as he says it, courage is the opposite of national security fear mongering, standing up against it. And that matches what Pericles said.

**RL:** I actually think that’s like apples and elephants. One can be courageous in defense of national security issues. One can be courageous in opposition to national security issues. It all depends upon the circumstances and the particular environment. I don’t think they’re opposites at all.

**SH:** Let’s look abroad a little bit. The European Court of Justice handed down a landmark decision, saying that the European-US Safe Harbor Agreement was invalid because it allowed Internet companies based in the United States to store European users’ data on servers in the United States. This violated the privacy rights of European citizens because U.S. companies were required to comply with the NSA’s large-scale efforts to collect data in ways that violated the EU privacy rules.

When that decision came out, a number of major European newspapers reviewed it and said, “This is the highest court in Europe concluding that Edward Snowden is right and the NSA is wrong.” It was presented immediately as a strong validation of Snowden’s position. It also seems to be another case in which the strongest single sector of U.S. business is facing a dilemma that’s been created by the US intelligence community. Is that a fair analysis? And what’s the fix?

**RL:** This was a decision in a case to which the United States was not a party. It was decided on factual findings that were based on press articles that were in fact inaccurate. In particular, the court assumed that one specific surveillance
program, which people refer to as Prism, was mass, indiscriminate surveillance, which it is not. It’s targeted surveillance. It’s a large program, but it still requires people to be targeted based on the fact that they’re of foreign intelligence value.

SH: Is it not indiscriminate as to Europeans?

RL: No, it’s not indiscriminate as to Europeans.

SH: It’s only Europeans who are of intelligence interest.

RL: It’s not only Europeans, but it’s only—non-Americans, located outside of the United States, who are of foreign intelligence interest. Those are the only people who can be targeted under this.

In terms of your broader point, I want to circle back to some of the harm caused by the manner in which this information has come out. I think even Mr. Snowden himself has said that some of the stuff that has been published is not stuff that he would have published.

The nature of this program, Prism, was perfectly clear in the statute. This was a statute that was openly debated by Congress and what Congress authorized and how this program was carried out was clear. What was new in what Mr. Snowden revealed was the identity of U.S. companies from whom this information is obtained. It is all pursuant to lawful process, but what caused the damage to the U.S. companies was revealing their identities, not the existence of the program. That’s the sort of thing that ought to be protected, in my view, because the companies may be losing business as a result.

Two other consequences are significant. First, I think we will end up seeing a Balkanization of the Internet as individual countries move to set up their own Internet systems. The net effect will be relatively robust privacy protections in the liberal democracies and very little in places like Russia and China. That will be a very negative consequence of the last couple of years.

The other point is that we have been losing our ability to collect communications of terrorists and other enemies. There is simply no doubt about that. Posts go up on jihadi forums that say, “Don’t use this platform because they work with the NSA . . . See this document that’s been published . . .” Those are genuine consequences from what’s happened.

SH: So you’re saying that the harm comes from the fact that it was disclosed that Facebook was cooperating, not from the fact that Facebook was cooperating.

RL: Correct.

SH: I don’t think the European Court would agree with that. I’m sure they wouldn’t.

RL: I understand that, but let me make my point clear—if you’re going to have intelligence work, a certain amount of it has to be in secret, or it doesn’t work.

My view, which I have advocated inside and outside of the government, is that we have to be relatively transparent about the authorities that we operate under, procedures we use, and oversight over what is a highly regulated enterprise. What we have to protect are the specific methods, specific targets, specific sources—information that could enable an adversary to defeat the surveillance that is lawfully authorized. In my view, the identity of companies that are lawfully subject to process in the United States falls within that latter category.

SH: Should Europeans have a higher level of privacy protection in this regard than Americans?

RL: I’m not sure that they do.

SH: Isn’t that a consequence of this decision?

RL: I think they need to look at some of their own laws. Setting that aside, I think there are good reasons why U.S. intelligence agencies afford greater protections to Americans than to non-Americans.

SH: But that’s the key thing: when a case is made for protection of citizens, this other case is made over and over again, that we protect specific rights of U.S. citizens. And our European allies hear that and say, “yes, not us”; in other words, we’re fair game.

RL: But if you think of what everyone is concerned about with intelligence agencies, the concern historically in the United States and elsewhere has been the abuse of intelligence agencies against their own citizens. A reference was made earlier to COINTELPRO. It’s the Stasi, it’s the KGB. There are good reasons why U.S. law restricts the ability of U.S. intelligence agencies to spy on Americans more than it restricts the ability of U.S. intelligence agencies to collect foreign intelligence from foreign individuals.
SH: Let’s focus on that, because the real serious point of rupture right now seems to be between the United States and Germany. In fact, I’d say Germany for the last year at least—

RL: This is the same Germany that was just revealed to have been spying on the United States, right?

SH: The same Germany that was just revealed to be spying on the United States?

RL: Yes. A German newspaper reported this week that the German spy agency had been targeting Americans for espionage.

SH: I have no doubt that intelligence agencies target people all over the world. The difference with Germany is that the U.S. intelligence community maintains massive facilities on German soil to do this. The Germans do not have comparable operations on U.S. soil. For the last year, Germans have read about the NSA scandal; that’s the way it’s described on almost a daily basis. There has been surveillance conducted on German soil of German citizens in clear violation of German law. Germany’s response has been to press for what they call a no-spy agreement; the United States has declined to go there. These developments have, collectively, led to a pretty sharp collapse in confidence in Germany toward the U.S. intelligence community. I’d say it’s clear that German attitudes toward the United States are warm and friendly and positive, but not toward your clientele. It’s chilled the willingness of Germany to cooperate with the NSA and the CIA.

Germany is the largest and wealthiest of our European allies. The criticism that one hears articulated there over and over again is that for this administration in Washington, it’s clear that the range of discretion of the spy agencies is far more important than the Atlantic Alliance that we worked for three generations to build.

How do you persuade them they’re wrong about that, and how do you work your way out of this crisis of confidence?

RL: So the first point to make is that many of the stories and allegations that have come out have not been accurate. The Germans have a parliamentary inquiry right now to look into whether there was any violation of German law or not. At the end of that inquiry—certainly not before the end—is the appropriate time for Germans to make those judgments.

I would make two other points. First, I disagree with your proposition that the German intelligence services are less willing to cooperate with the U.S. intelligence services as a result of this. In fact, we have an extraordinarily productive relationship with them, as we do with many European services. Through our surveillance capabilities we provide them with information that they use to protect themselves—to arrest terrorists in Germany, and so on; they know that. And they give us information. This has not been affected.

Second, in response to this, the president has made clear that we are going to take into account the privacy rights of people around the world. We will take into account the political consequences of our surveillance and try to insure that we do not harm relations with other countries by conducting espionage.

Having said that, if you’re going to have an intelligence agency, as you said, it’s going to conduct espionage.

SH: What about the Espionage Act? That issue has come up quite a bit—in the Democratic debates, and in the last couple of days in remarks that Eric Holder made during which he said, “You people are just freaking out over the name Espionage Act. You shouldn’t get so worked up about it.”

In fact, it is a major point of focus here, because, as was pointed out here earlier by Mr. Snowden, it seems to be a harsh and inflexible statute. It creates a per se liability. So, a government employee releases classified information. I think one of our earlier speakers talked about the Daniel Ellsberg [Pentagon Papers] case. According to the statute, the instant that questions were raised about motive, they would be stopped. There would be no inquiry into motive. The question of intention on the part of a person who was leaking, the question of harm to the United States, the question of public benefit, all of these questions would not be addressed. Shouldn’t there be a public interest defense?

RL: I have three comments. First, Eric [Holder] is absolutely right. That this happens to be the Espionage Act is an artifact of the way the U.S. Code was constructed. This statute has about 10 different sections, which range from misdemeanors up to statutes where betraying the country in ways that cause death can be a capital crime. They’re all lumped together under this one thing that’s called—

SH: You don’t think it has to do with congressional intent that the statute applies only to espionage?
RL: No. Absolutely not.

SH: Absolutely not? Notwithstanding the fact that there were hardly any prosecutions of whistleblowers brought under that statute before Ellsberg.

RL: There were some that I’m aware of. But if you read that statute, one section makes it a crime—I know this because I represented someone charged with it—to store classified material improperly in your home. By no stretch of the imagination is that an intent to reach espionage. It’s a statute that governs the handling of classified material. It was written originally in 1919 and has been accreted on since then. It deserves to be thrown out.

SH: Feel free to applaud.

RL: I might not have the same rewrite of it as you, but I think it’s worth discussing what the statute ought to look like. Parts of it are wildly overcharged; parts are wildly undercharged.

Speaking specifically to your question about intent and motive: this has nothing to do with the Espionage Act. This is a basic principle of criminal law, which is that a good motive cannot excuse a bad act. This is the same defense that the people who murder abortion providers use. They say, we are acting in the service of a higher good. But it is routine throughout our criminal justice system that you cannot defend yourself against criminal charges by your good motive. You can argue to the judge at sentencing in mitigation that you had a good motive—that’s the way our legal system takes that into account.

But if you open the door to saying that in one particular case, because you like what this particular person has done, he should be allowed to argue that he did it for a good purpose, you go down a very slippery slope very rapidly.

SH: But that wouldn’t be the case if you created by statute an affirmative defense.

RL: What would the affirmative defense be?

SH: A public interest defense.

RL: Who gets to determine what’s in the public interest?

SH: The finder of fact.
SH: But you will agree, it was eye opening for the American public. It had a strong impact on public debate.

RL: I’m not quantifying; as I said, I won’t get into who learned more from it. Absolutely the American people learned, and there is no question that, as I said, some of what came out should have been made public before. I agree on that. But far more was revealed than should have been, in my judgment.

SH: Let’s look at the disclosures that came yesterday—and I’m not going to ask you to comment on them because I know you shouldn’t. But we had a large portfolio of Department of Defense documents concerning drone warfare in a particular targeted killing program. The argument for that disclosure is that whatever the details of this program, it marked a major shift in U.S. government policy: not a question of individual strikes against individual people, but the way we conduct ourselves in wartime and the way we fight wars. And it created a new kind of warfare that is particularly covert. You have one drone stroke, fine. You have 400 drone strikes over 10 years, is that something that should be avoiding the process of public deliberation and discussion the way the American political process has provided for a century?

RL: I have two comments: First, nothing DOD does is covert. By the laws of war, DOD is required to acknowledge everything they do. Second, I have not noticed an absence of discussion about drones in this country in the last five years.

SH: But you do notice the absence of U.S. government official participation in those discussions. And when you say that nothing the Department of Defense does is covert, Joint Special Operations Command (JSOC) you think has not engaged in covert activities?

RL: They are not engaged in covert activities. Absolutely not.

SH: In general, what you say about the Department of Defense is true, and that’s a significant point to keep in mind about this drone program specifically. But if another government agency, the CIA, has a covert drone operation, without the processes for public vetting and public discussion that the Department of Defense developed over generations, since its founding—that CIA activity, CIA warfare, as long as it can be called covert activity, is not subject to that process.

RL: The CIA is subject to a different process. And as I said, to your point that there should be a public discussion about whether or not drones should be used in the conduct of this conflict, that public discussion has happened. It’s happened in Congress, and within the executive branch; officials there have given numerous speeches about it. This is not an issue. Specifics about drone activity have been withheld, but the policy discussion about drones has been vigorous and lively, involving the government and the private sector.

SH: I have a fundamental problem with that contention. We have Ben Wittes and we have Ken Anderson, who’s published a book describing that debate and that policy elaboration; both have it as a policy platform that’s been put forward by the administration. But when I go through and look at the debate, I think, wait a minute, these are long after-the-fact rationalizations and explanations for what was done.

RL: I don’t know what you mean by after the fact. There’s no question the drone program started in the prior administration. I have no knowledge of what happened then; that’s before my time. Absolutely the American people learned, and there is no question that, as I said, some of what came out should have been made public before. Absolutely the American people learned, and there is no question that, as I said, some of what came out should have been made public before. I agree on that. But far more was revealed than should have been, in my judgment.

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Why Privacy Matters

Edward Snowden
Moderators: Peter Maass, Ann Lauterbach, and Roger Berkowitz

Ann Lauterbach: You opened your Twitter account by saying that you are neither a hero nor a traitor, but a citizen with a voice. As another citizen with a voice, I would like to begin our conversation today by thanking you for being the catalyst of an energetic public debate about the nature of the relation between individual citizens and their rights, specifically their right not to be represented by a government that seizes private information unilaterally without their knowledge or consent.

We are coming to the end of a two-day conference titled “Why Privacy Matters.” Could you say why you think privacy matters, especially in relation to our idea of freedom? And could you also explain what you meant when you told Lawrence Lessig that you believed the right to privacy is a natural right?

Edward Snowden: When I think what compelled me to come forward, it is about much more than privacy. We talk in the context of privacy as a specific right, but what we are really discussing is the idea of liberty, what we are talking about is our democracy, we are talking about the systems and processes in place that have control over the external forces that often intrude into the private domains of our lives, that reshape the boundaries of our rights and our societies.

Privacy is a word that’s thrown around today, but it is not really understood. It is not even valued by some because what it means is not really explained. When people say, I do not care about privacy, and you ask, why not, they say, “I do not have something to hide.” But privacy is not about something to hide. Privacy is about something to lose.

Privacy is that safe space, that right to act and think and share without pre-judgment, without every idea, every utterance being tracked, and recorded, and monitored, and stored, whether by your peers in a small village a thousand years ago, or today, as you engage in the normal activities that follow us around, that surround us every day.

Right now, you may be a student, you may use a lunch card in the cafeteria, and that leaves a permanent record of where you were at that time. It is not necessarily about what you are ordering for lunch. That does not mean you have something to hide. But what is occurring is that perfect records of private lives are being aggregated, are being intercepted, are being stored in a new, more intrusive manner and at a scale that has never happened before.

Governments have always claimed this capability in extraordinary cases. They have said, for the purposes of investigation of criminal activities, and so on and so forth, we will grant ourselves the authority to intrude into this individual’s rights for the benefit of society more broadly. But that was very heavily checked and safeguarded by imposing individualized judicial oversight upon the process.

When I said that privacy is a natural right, I do not mean in a traditional, philosophical sense. What I mean is that the burden of intrusion falls upon the intruder, not upon the one who is being intruded upon. You do not need to say why your rights are valuable to you in your particular case. You do not need to make a showing of vulnerability. You simply need to make a showing of humanity. You need to show that you are a person like any other, and that happens by virtue of your existence. It is incumbent upon the government, which is not granting rights, simply guaranteeing rights, protecting rights, to make a showing through our processes that represent us in a civil society, to say, this is a necessary cause, a necessary action because particularized, concrete, demonstrable harm will be shown to occur if that does not happen.

The government must get a warrant, and probable cause must be shown to our courts. But in the darkness, without our knowledge, without our consent, this changed over the last several decades, beginning in the second Bush administration most aggressively, but continuing today. I think we should all be wary of this because we are no longer involved in traditional means of criminal investigation, of intelligence collection. Instead, we have a mass, indiscriminate method of collection, which you can think of as pre-criminal investigation.

Now the government would say a bulk collection is not an intrusion. They would say that the mass surveillance that is occurring, that they euphemize as bulk collection, is tracking and monitoring, intercepting and aggregating, storing and analyzing all of your activities, but no individual is actually looking at those. They are monitoring you, but they are not necessarily reading you. They are storing your e-mails, they are tracking your calls, but they are not actually using those for some purpose. This collection is also a violation of the Fourth Amendment, which prohibits not just unreasonable searches, but also the actual seizures to begin with, where they take things without that demonstration of individualized necessity.

Rather than probable cause, today the standard for mass surveillance is what they call reasonable, articulable suspicion, which is really a gut feeling. I engaged in this every day. You have a little justification box that you type three words in—it takes fewer characters than writing a Tweet—to be able to say, I want to look at everything this person has ever done. This power is extraordinary and redefines our relationship to the government.

AL: There must have been a moment when you made a decision—or maybe you made it over a long time—to exchange your private rights for becoming what you have called a citizen. Can you trace a little bit, can you say how that happened to you?
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I gained more and more access to a broader and broader scope of information. NSA. I had worked in both human intelligence and signals intelligence. I had in many ways one could argue that they succeeded. An investigation was opened. They tried to destroy his life, and the programs, rather than protecting Drake in any way, they referred him for prosecution. Mr. Clinton said, “He could have gotten the protections of being a whistleblower. He could have raised all the issues he’s raised, and I think there would have been a positive response to that. He stole very important information that has unfortunately fallen into the wrong hands, so I don’t think he should be brought home without facing the music.” I’m interested in your response to what Mrs. Clinton said.

When I was growing up, my father worked for the military, my mother worked for the federal government. Everyone in my family had some kind of connection. I grew up in the shadow of the National Security Agency, completely unquestioning of government. When others were protesting the Iraq War, I was signing up for it. In 2004, I was in the Army in basic training. By 2005, I was working for the CIA as a contractor and then as a CIA intelligence officer going overseas. As this happened, it took a very long time for me to wonder if there was anything morally questionable about what the NSA was doing, because the language of government inside, internally, within the machine of bureaucracy, is very self-certain and reassured. It is very confident because it speaks with the language of force; it speaks with the language of designation.

What got to me eventually was reporting, newspapers, civil society reaching me step-by-step, piece by piece. I saw the promise of the Obama presidency; he campaigned on the restriction of these programs, saying that we should not have warrantless wiretapping in America. He said, “I will not hold even the highest members of society, like the president, who had admittedly broken the law and violated the Constitution, to the same account that ordinary people do.” I saw him eventually walk away from those promises.

I also saw previous whistleblowers, individuals like Thomas Drake, stand up and show clear wrongdoing against everyone. Drake is an extraordinarily brave, principled individual. He was a senior executive working at the NSA, an individual at the top of the chain who led a charmed life, who had to do relatively little work in exchange for extraordinary rewards. He saw that the Bush administration had said, “We are going spy on everybody in the country because it might stop an attack.” He went by the book, went to two different inspector generals, went to the Congressional intelligence committees, saying that something has to be done about this. Rather than government reforming the programs, rather than protecting Drake in any way, they referred him for prosecution. An investigation was opened. They tried to destroy his life, and in many ways one could argue that they succeeded.

A step-by-step process led eventually to the point where I was sitting in the court and say, “we do have the facts.” Then we, the public, can return to our seat at the table of government.

That was what I realized. We have a tripartite-type system with a separation of powers. But without the facts, one of the arms of government can be removed from the process. Something has to give, something has to change, or we don’t have the government that we believe we do. That was very important to me.

Peter Maass: At the Democratic presidential debate, all the candidates were asked about you, whether they thought you had done the right thing or not. As you probably know, all except for one said that you should be punished to one degree or another. In particular, Hillary Clinton said, “He could have gotten the protections of being a whistleblower. He could have raised all the issues he’s raised, and I think there would have been a positive response to that. He stole very important information that has unfortunately fallen into the wrong hands, so I don’t think he should be brought home without facing the music.” I’m interested in your response to what Mrs. Clinton said.

ES: This is something that’s a little bit unsatisfying for many journalists. They are always looking for that key moment—

AL: I am not a journalist.

ES: I know, but trust me, I have gotten this question before, because it is interesting to people. We want to think there is a switch, a moment, where something instantly turns. In my experience, it is actually a path.

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And I realized that our public claims are not the same as the private realities of what is going on. That realization, I think, would bother anyone.

There is a cognitive dissonance by which you can be a good person and tell yourself that you’re doing bad things for good reasons for a very long time. But the burden of that dissonance increases over time because you think that dangerous activities, harmful activities, are exceptional activities. These are things that you do in periods of crisis that are necessary for the safety of the nation. But when you work with the products of intelligence, for example, you see that while we are arguing and justifying what we do on the basis of public safety, the actual function of these programs is not about safety at all; it is about relative advantage. We want to out-compete, we want to outmaneuver. We are using authority that was designed for stopping terrorist attacks in the wake of 9/11 to monitor U.S. law firms that are involved in negotiations over the price of shrimp and clove cigarettes.

In 2013, at the very beginning of the year, non-government organizations said they wanted to evaluate the constitutionality of these programs. The government said they could not, that the NGOs lacked the authority to contest the government’s claims. Collectively, we could not prove that we were being spied on. And when our elected members of Congress asked James Clapper, the director of national intelligence, the most senior intelligence official in the United States: “Does the NSA collect any information, any records at all, on millions or hundreds of millions of Americans?” Clapper responded, under oath, “No, no sir, not wittingly.”

I knew that was not the case.

When we the people have information, when we understand what’s going on, we can move the national conversation to a different place. We can go to the courts and say, “we do have the facts.” Then we, the public, can return to our seat at the table of government.

That was what I realized. We have a tripartite-type system with a separation of powers. But without the facts, one of the arms of government can be removed from the process. Something has to give, something has to change, or we don’t have the government that we believe we do. That was very important to me.
**ES:** In many ways, there is a lack of political courage in the establishment class that we expect to champion privacy. I think everybody in this room feels that, everyone in the nation feels that. This is a point of friction in the relationship between the governing and the governed. We have a situation in which we have rising levels of inequality throughout all parts of society, whether it’s about the application of police violence, whether it’s about the distribution of the economy. Everyone in this room probably understands the problems with student debt obligations that can no longer be discharged.

Truth should matter in politics, and courage should matter in politics, because we need change. Everyone knows we need change. And we have been aggrieved and in many ways misled by political leaders in the past. We have recently had presidential elections where the entire platform was about change. Then, unfortunately, we saw that rather than a new level of transparency and accountability reaching Washington, we saw instead an extension, an increase in secrecy. The Obama administration has prosecuted more whistleblowers for their cooperation with journalists in publishing material of public interest that we all need to know than every other administration in the history of the United States combined. These are things that should alarm us; these are things that should concern us.

But ultimately, when the candidates are talking about me on the stage of the Democratic debate, it does not make me happy, or excited, because it is not about me. It is about us. It is about how we want our policies to look in the future; it is about how we want to live; it is about the government that we want to have and participate in and eventually, ultimately, hopefully, enjoy.

**AL:** I want to pick up on that word *policy,* because I heard you talk about policy makers at a certain moment, and I was interested in your sense that people who make policy live in a different space from the people for whom that policy is supposed to respond to. Maybe we all know that, but I thought your particular take on it, on the problem of policy makers, makes even those words suspect.

**ES:** The real question, or the real tension to resolve is, how do we set policy, how do we control policy? Whom does policy represent? Unfortunately, because of the gaming of our political system, each time we have an election, it is like another round of the game. The players have a contest, and then on the basis of the outcome, they learn lessons, and they revise their strategy next time.

Today we are in a situation in which policies are decided by parties more than by individual politicians. When you look at the different individuals comprising a party, you notice that their policy positions are almost identical. In many cases, we are simply seeing that the most empowered groups within society—whether these are private businesses, elite interests, or some other groups—are able to influence both parties through campaign donations and financial influence. They can shape the policies that they enjoy, regardless of who takes office.

When we think about where this leads, we get policy that is divorced from political, civil reality. We have policy that represents an elite class, a class that comprises people who identify as politicians, who support the political system, and who largely do not want to see it change; or, they recognize that trying to change it, even if they wanted to, even if they legitimately wanted to see reform, is too difficult for them to do. By attempting to organize change, they would make themselves a threat to parties and, eventually, be removed from power.

We run into this situation where secret policies are being created not by the public, not even by elected politicians, but by bureaucrats behind closed doors who entitle themselves to powers with which they are not invested by either statute or the Constitution. The biggest organizations within society have been co-opted and used against us. AT&T was recently exposed in the New York Times as being a partner of the NSA. AT&T cooperated in ways beyond what is required by law.

Politicians say that we spy in the United States only when requests are approved by the Foreign Surveillance Court, a secret court, a rubber-stamp court; this is better than nothing. Maybe you can rely on judges even if they are not held to the account of the public. But even by those low standards, classified documents, which are never shared with the public, indicate that the NSA has violated even that low bar of law and policy thousands of times per year, 2,776 in 2012. Each one of those violations is not one intercepted phone call; each one of those 2,776 times was the NSA intercepting every phone call in a Washington, D.C., area code for a period of days. This affects thousands or even millions of people.

Why are we in a situation today in which the policies that have the greatest impact on the nature of our society—what the government is doing in our name and, occasionally and sometimes even often, against us—why can these things not be debated with the public? Why can we not be seen to have a say in them? Why can we not have these issues heard in an open court unless an individual, an ordinary citizen, risks his freedom or his life to share this with the press in a circumstance that we know is going to get him punished? We have seen this again and again, not just since 2001, but even going back to Daniel Ellsberg.

If we are structuring our society in such a way that we cannot know the truth and we cannot discuss the truth unless someone self-nominates to light himself on fire, and then we just call these people whistleblowers, we’ll very quickly find ourselves without whistleblowers. And what do we do then?

The question is, how do we recover from these kinds of things? What does policy mean when policy is not ours?
AL: I have a question about the nature of celebrity and the fact that you have something like a dark celebrity at the moment. I am concerned that in America particularly what we do is assign to single person a whole role. You have a very particular role right now, and you have a voice that speaks wonderfully from that role; but then you are consigned to being an icon, or a symbol of a set of very important ideas. There is something about consensus here. Maybe everybody in this room is totally on your side. Then we say goodbye to you, and you go back to your dark celebrity, and then we have to think about what should we be doing. Everybody in the room is not going to be a whistleblower, because we do not even have access to the kind of information that you and others have.

Do you have any sort of strong sense of what kinds of actions the people in this room might take to confound, or oppose, or shift the ground so that we are not just depending on your voice? I think that we are depending on you to articulate this, and then we all feel a little bit better because it has been articulated. But we are still without very much agency.

ES: I agree, and I think agency is critical. I would push back and say I do not agree with the characterization of my celebrity. I don’t like the labeling. I do not like the elevation of whistleblowers. Even though people say being a hero would be a good thing, it is other-izing, it is distancing; it says that this person did something I could never do in that situation, and that’s absolutely not true. Yes, you may not be in that circumstance, but that is the nature of whistleblowing; and that is actually, ultimately, the nature of action in general. Whistleblowers are elected by circumstance. It is not about who you are, what your credentials are; it is about what you see, what you witness, and ultimately the choice to do something to change it. That happens throughout society on every issue.

AL: Can I ask, what do you like to read?

ES: The Internet. I would name a particular group, or magazine, or newspaper but this is one of the great values and beauties of the Internet. It does not constrain you to readership of this or that group. You can reach across borders, across languages, across outlets and institutions to get a diversity of views; this allowed me as a young man, because of the pseudonymity or the anonymity that the Internet can provide, to go across tribes, to get the other viewpoints, to read Foreign Policy Magazine, or something else that may be a little bit more favorable to the state, and then read things that are a little bit more critical. I can also read the comments of ordinary people, their ideas, their thoughts. That is what informs me the most.

When people say I am championing these ideas, or they try to elevate me as a thinker—I’m not a great original thinker. I wasn’t sitting troubled at the NSA, trying to puzzle out the mystery of the universe. I was simply part of a larger body of humanity who saw that something was going on and thought it was wrong. I listened to their arguments, and from those arguments, I derived my own. I recommend that everyone do that.

PM: I’d like to ask you a question about Twitter, because you recently joined that half of humanity, it seems, in opening up a Twitter account. You quickly accumulated something like 1.4 million followers, which is not quite Justin Bieber levels, which is about 70 million, but it’s not bad. Twitter is a very public platform, and you have been very personal, surprisingly so, in what you have been Tweeting. So the question I would like to ask, in the context of this conference on privacy and surveillance, is why you have joined this kind of privacy-negating platform?

ES: This gets into a broader point, about the public nature of the Internet. That is very different from saying that someone is adopting positions that are contrary to a valuing of privacy rights. The key here is that the value of privacy, the value of these services, is about being able to share selectively, constructively. Just as we do in a conversation, we pick the words that we share with those around us; we pick the ideas that we communicate with people out on the Internet, I think this is something to be cherished and embraced.

I use privacy-enhancing technologies to prevent things being taken from me involuntarily or being exploited, even if it is in a contractually agreed-up-on relationship. For example, licensing agreements that on many sites are extremely abusive, allowing them to collect information about you and share it, and resell it, and do whatever they want with it. There are privacy-enhancing technologies, for example the Tor Project, which you can download and which provides location anonymity.

When you use Tor, Twitter knows you are there, but it does not know where you are. It does not know that you’re at the hospital, or with your family, unless you choose to share that.

Consent is really the single most important factor missing from the mainstream policy positions on privacy. When I think about what the American Project is about, what the Bill of Rights says when you stop looking at each particular amendment and you start looking at the broad aggregation of points, I see an emphasis on voluntary participation. We are not accountable to a government; it is accountable to us.

Increasingly, however, we have corporations who misuse these mechanisms. Facebook permanently records every IP address that you have ever used to connect to it. Facebook will happily share that information with any government that asks.

We are more transparent today as a public than we ever have been before. At the same time, government officials, privileged officials, whether they are...
billionaires or bureaucrats, are exempting themselves from the same standards of accountability and behavior, whether through a two-tracked, two-tiered system of justice that means a poor individual will be arrested or killed on the street for a minor violation, or the application of a state secrets regime no matter how grievous the wrongdoing, how terrible the violation of rights.

The people who occupy the positions of the greatest power in society should be held to the greatest standards of accountability, not the opposite. That’s the fundamental issue that we have to resolve.

PM: You mentioned Facebook. Is Facebook the corporate NSA in the sense of accumulating information about people, doing it secretly, and not sharing it with them?

ES: Ultimately, it comes down to trust and trusted relationships. There are ways to have social networks with ad-supported models that are not exploitative. Social media is not the greatest evil, but it is something that we should control, something we should be able to trust. The problem today is that these large organizations—not exclusively Facebook—are unwilling to make a commitment to the user.

We can see ways forward, however. For example, Apple has said that they are no longer interested in collecting and selling your data; they’re interested in simply selling you devices, products, and services. They are not going to resell your data in the same way. We don’t know whether that is true or not; we don’t know whether we can trust Apple. If they prove, over time, to be reliable, they could show us the way forward to a new model, where we actually can retain trusted relationships with companies and services that benefit not just their shareholders, but also the public and, ultimately, the world.

AL: American pragmatists thought a lot about consequences in terms of making choices, and I’m curious about whether or how you thought about the consequences for you personally in this action. Simultaneously, I’m interested in how you imagine the future—where you’ll be in 10 years, what you’ll be doing, and what you’d like to be doing.

ES: This gets back to the Democratic debate question from earlier. The characterization was that many candidates wanted to prosecute me, and the implication was that that is a negative trend. I would argue that the statements at the Democratic debate were an extraordinary leap forward in terms of recognition by the establishment that my actions of 2013 were not as harmful as initially claimed. I don’t think anyone important used the word traitor. It was certainly not applied universally, which, in 2013, it was.

In 2013, people were saying, “The sky is going to ignite, the oceans are going to boil off, everybody’s going to die, terrorists are going to get through.”

In 2015, despite the fact that we brought the directors of the NSA, CIA, and so forth before Congress to give testimony about this, they have never shown a single instance in which any individual was harmed or died as a result of the journalism based on what I revealed. This fact is critical.

People say we need to have a balance between privacy and security; that is completely false—not only disingenuous, but also intentionally misleading. Privacy and security are parallel goals. The more private you are, the safer you are, the more protected you are. We can increase both of these goals together.

Anyone who says that you need to give up privacy to get security is creating a false dilemma to make you abandon the position that your rights can be protected. In the meantime, we can also maintain the traditional means of investigation. We do have evidence that does thwart terrorist plots, that does capture criminals. Justice has to be done in an open court that convicts someone and gives the public faith that the system can work in a fair way. When you have closed sessions, classified evidence, and people who have the book thrown at them for minor offenses, that does not make us more safe, that does not make us more secure. It might make a structure or a system more stable, but it increases the general level of conflict that exists within a society.

Roger Berkowitz: We have students at different Bard campuses in Germany, Russia, Kyrgyzstan, and the West Bank, and also in New York City watching today; part of the idea is to give them some different perspectives. I wonder if you have anything to say to them.

ES: We have to think about the sort of explosion of connectivity that is happening around the world, but also about the different positions taken by many governments. The Russian government has cracked down on how people can love each other, how they can associate, and on Internet freedoms; the same thing is happening in China, in Latin America, in France, and in a new, quite frightening case, in the United Kingdom. The prime minister of the United Kingdom, David Cameron, said, “We can’t allow conversations to occur within our society to which the government is not privy.” These things are dangerous, and need to make us think on a level that is higher than national laws. We cannot rely on even the most enlightened parliament of any society to protect human rights within its border sphere of influence alone.

We have to search for new means, new mechanisms of enforcing human rights for new times, new situations, new circumstances. Technologies like encryption make me optimistic for the future, despite the grave challenges that we face, despite the gradually increasing authoritarianism we see in political centers around the world. For people who occupy positions of influence, who hold a claim to the greatest percentage of resources in a society, the watchword is stability. Stability is persuasive to many people. We all want to be safe, we all want to be peaceful. But I get the feeling that the governmental
idea of stability is quite different from that of the public. We can imagine, at least in our dreams, a sort of perfect fantasy world in which exists a sweep of reform, a golden era, a renaissance of civil and political rights. But as soon as a pretext for surveillance—for example, a terrorist act—crosses our borders, all of those protections vanish.

If we invest in science and technology, if the students sitting in this room—undergraduates, smart grad students—cooperate and collaborate to develop new mechanisms of communication, new systems, new protocols, new ways of thinking, new ways of sharing, new ways of describing, and new ways of making an argument, we can extend and enforce the guarantees of human rights that we inherited, not just to the next generation in our country, but around the world.

**Sam Reed**: Thanks for speaking with us today. From very early on you have said that you would be willing to stand trial in the United States, given certain conditions. What do you think the value of that is and what do you see as preventing you from doing so.

**ES**: My lawyer tells me never to talk about this; I talk about it anyway. The idea here is that I am not that radical when it comes to the political spectrum—not very far left, not very far right.

But when it comes to supporting the traditional mechanisms of the United States, it has been quite difficult for me even to question these premises, because that’s the way I was raised, the way I grew up. I love this country. I love this system. I want to see it thrive.

When I said I would be willing to return to the United States to stand trial, the response shocked me. Everyone said, “You fool! What are you thinking? Why would you volunteer yourself to a justice system that everyone knows leads the world in incarcerations.”

When I talked to the government about this, I said, “Look, I don’t want to tear down the system. I don’t want to burn it to the ground. I want people to be able to have faith in it, and I want to help people believe in it. I want to help improve it.” They said, “Well, we won’t torture you.” We haven’t gotten beyond that yet. So maybe there is room for growth.

**RB**: We have a question from Martin Legros in Paris from *Philosophy Magazine*. He writes: “To live entirely a private life means above all to be deprived of things essential to the truly human life, to be deprived of the reality that comes from being seen and heard by others.” He’s quoting Hannah Arendt here. The question is, what do you imagine a private life to be, and what is important about a private life that surveillance deeply interferes with?

**ES**: I think the idea here is not to take the lesson that we have to move a cabin in the woods to be safe, to be private. To live a truly private life in a philosophical sense, that may be true. But what is the purpose of a right to privacy?

Because we have the right to free press, to work as a journalist, to publish, does not obligate us to all work as journalists. The right to privacy does not obligate us to live perfectly private lives.

Instead, the right to privacy is about being able to protect the things that matter to us that we want to keep to ourselves; it means that there are things we want to reveal selectively, to those we love, to those we trust. At the same time, you are not obligated to cut yourself off from society, from your friends; you’re not obligated to limit yourself in any way. But you do have that right.

**AL**: You’re remarkably articulate and eloquent, and that makes me think that you have at some level thought about language itself. I’m wondering if you believe that language is still something that can operate as a vehicle for changing the way people think and act.

**ES**: I think that without language there is no connection. How do you reach across space, particularly across distance, where you don’t have physical proximity to convey ideas? How do you pass ideas beyond our life spans? You have to have some system of writing, of encoding, of passage into something that’s greater and beyond and external to yourself. This is the most beautiful story of civilization, that we’ve moved beyond the tyranny of self, of meeting our human foundational needs, of food, and warmth, and things like that, and begun to coordinate, to build, to shape, and to acculturate ourselves and see one another as something more than a competitor for a given resource.

**RB**: At a time when language is so powerless, what you think was the moment—or was there a moment—when your language broke through? Was it something you said? Was there a metaphor? A gesture? What do you think broke through to people?

**ES**: I don’t think it was me at all. The greatest impact came immediately because we weren’t involved in the language of claims. We moved beyond the space of allegation. It wasn’t about this or that person, or whether they were credible; it was about documents.

The real power of journalism is in the finding of fact, the establishment over time of what is and what is not. This is one of the most critical points, which I think is lost in the daily operation of the press today. The press has become closer to industry and government. The idea here is that it is not
enough to have a free press, to simply write what we want. We also have a sense of what corresponds with that right, which is an obligation.

When we are imbued with privilege, with protection, with guarantee of a given right, we should use it for good. This means we shouldn’t just have a free press, but that we should have an adversarial press, which does not simply listen to government statements and transcribe them, but actively challenges them, engages in a muscular conflict, a contest with them, not to ask them for the truth, but to wrest it from them.
Editorial Reflections on *The Jewish Writings*

Remarks delivered at the Van Leer Institute in Jerusalem, on the occasion of the publication of the Hebrew translation of *The Jewish Writings*

January 30, 2012

Ron H. Feldman

I am so happy to be here at the Van Leer Institute to participate in this symposium in celebration of the Hebrew translation of *The Jewish Writings*, which I co-edited with Jerome Kohn, and which was published in the United States by Schocken in 2007. This collection comes 30 years after *The Jew as Pariah*, a smaller collection that I edited, published by Grove Press in 1978. I would like to share some reflections on the over 30-year editorial journey I have taken with Hannah Arendt’s Jewish writings, including my earlier effort to have this work translated into Hebrew. My hope is that these reflections will be more than a merely personal report, that they will help illuminate the intellectual and political currents that led to my interest in Arendt’s work, and the interest in her work in Israel today, almost 35 years later.

I was last at Van Leer in December 1997, when I attended a three-day conference on Hannah Arendt organized by Professor Steve Aschheim of the Hebrew University. The Van Leer conference was probably the beginning of the road toward the Hebrew version of *The Jewish Writings* because it indicated a change in Israeli attitudes toward Arendt, who had become unwelcome after her publication of *Eichmann in Jerusalem* in 1963. To recall the controversy over Arendt’s report on the trial of Adolf Eichmann: what upset a chorus of detractors was her assertion that during the Holocaust Jewish leaders throughout Europe “cooperated in one way or another, for one reason or another, with the Nazis.” As put by her one-time friend, the historian Gershom Scholem, “We are asked, it appears, to confess that the Jews, too, had their ‘share’ in these acts of genocide.” Arendt clarified her position by saying that the tragedy of the Jewish leaders was that they “were not traitors or Gestapo agents and still they became the tools of the Nazis.” The Israeli establishment was also upset with her because she criticized the conduct of the prosecution and its effort to turn the trial into a show trial about the horrors of the Holocaust, not the guilt or innocence of Eichmann the person. Lost in all this fury was the fact that, despite her criticism, Arendt agreed that Israel had the right to try Eichmann, and with the verdict, that he should be hanged.

The legacy of the controversy contains a double irony: for Ben-Gurion it is ironic that Arendt’s report is still read and is the main way that the Eichmann trial is remembered today. For Arendt the legacy is equally ironic because, despite her criticism of the trial, she has become Ben-Gurion’s long-term publicist for the main message of the trial, which was to show the world the horrors of the Holocaust. Still, she was labeled a self-hating Jew; she became, to use one of her favorite terms, a “pariah” among the New York Jewish intelligentsia, and was subjected to a contemporary social form of excommunication.

Given the negative view of Arendt in the mainstream Jewish community, I think my interest in her work was facilitated by my distance in time and place from New York and Israel. I grew up in Los Angeles during the 1960s and attended the University of California at Santa Cruz in the mid-1970s—as far away (both literally and figuratively) from those centers of the Jewish establishment as you could get in the continental United States. By living in California I was far less impacted, impressed, or limited in my thinking by what happened in New York or Israel. In addition, the professors I had as my advisors—David Biale and J. Peter Euben—were also outside of this circle.

I came of age in Los Angeles during the post–Six-Day War era, when Israel had a very positive image and was a source of pride and positive identity for American Jews. I first visited Israel in 1968 on a family trip when I was 13, and I was fascinated by the people, the history, and the landscape. While Zionism had been a minority position among American and world Jewry before World War II, the Holocaust convinced the vast majority to support the Zionist position advocating a Jewish State. Still, only after the Six-Day War did the interests and situations of the American and Israeli Jewish communities converge and crystallize into a secular civil religion for contemporary Jews.

I think this redemptive mythic framework can be condensed into one commandment: *Remember the Holocaust and Support Israel.* This both described and prescribed what it meant to be a “good” Jew—and not just to Jews, but to non-Jews as well. If you didn’t keep kosher or observe the Sabbath you were an unobservant Jew; if you spoke critically of Israel or of Jewish memorialization of the Holocaust you were a “self-hating” Jew. Arendt’s views, of course, were in the vanguard of violating the simplistic versions of both of these articles of faith.

This paradigm was already a central part of Israel’s civil religion, as manifested in a multitude of museums (such as Yad Vashem, Yad Mordechai and Lohamei Haghetoa) and in the juxtaposition of the newly created holidays of Yom HaShoah (Holocaust Memorial Day), which precedes Yom HaAtzmaut (Independence Day) by one week. What the perceived threat to Israel’s survival leading up to the Six-Day War crystallized was a widespread American Jewish adoption of this Israeli / Zionist mythos, which resulted in Israel becoming a much larger focus of American Jewish pride and identity. The
continuous crises and news from the Middle East—especially the wars of 1967 and 1973, plus the Entebbe rescue in 1976—became catalysts for fund-raising, volunteering, and Jewish pride. The support of American Jews for Israel also facilitated political integration into America, not only because of Israel’s positive image as a small democratic country of tough Jews struggling against the Arabs—the biblical metaphor of David vs. Goliath was often used—but also because this image fit in with the Cold War struggle against the Soviet Union, which supported the Arabs. Simply put, the Jews and Israel were on America’s side.

It is important to keep in mind that the American Jewish turn toward Israel at that time had more to do with what was going on in the United States than in Israel. Since their arrival in the United States, Jews had become acceptable because they had successfully argued that they were religiously Jewish and patriotically American. By the 1960s, this argument had seen some success, and antisemitic discrimination was diminished—just in time for the American political crisis of the 1960s, when the Vietnam War and Watergate taught Americans to be distrustful of authority and government. The counterculture, environmentalism, and feminism were on the rise, with many Jews disproportionately prominent in these movements. The assimilationist ideology of America as a melting pot was also tatters, with urban riots accompanied by the rise of movements for ethnic pride and power, especially in the African American and Latino communities. One aspect of these developments was the breakdown of the earlier civil rights movement partnership between liberal Jews and African Americans. Jewish Americans, who had some success at being accepted as “white people” with a different religion (Hebrews rather than Christians) began to wonder whether they were a religion or an ethnic group; the positive image of Israel as a modern, secular, and militarily successful country added a positive impetus to the “ethnic” side of this choice. Also enhancing the ethnic side was the rise of Holocaust awareness and education, which taught that Jews were victims of a racial ideology that paid no heed to religious affiliation.

My early interest in Hannah Arendt’s Jewish writings should be understood in the context of this era. I wanted to find an undergraduate senior thesis topic that would allow me to critically address the two key events of 20th-century Jewish history and politics, namely the Holocaust and the State of Israel. A friend suggested that I read Arendt’s Origins of Totalitarianism, which in turn led me to her other books and my discovery of many uncollected and forgotten essays published in the 1940s. My timing was such that I began this research in 1976, less than a year after Arendt died in December 1975. I therefore never had a chance to meet her, which meant that my concentration on her work was not influenced by any personal contact or allegiance, but only by my study of her published writings.

My interest in Arendt was—and still is—political and philosophical, not personal. Perhaps this is why I find the whole discussion of Arendt’s relationship and affair with Heidegger—revealed after I had published The Jew as Pariah—so beside the point. What mattered to me were Arendt’s ideas about Jewish political issues. In particular, I found that she addressed many topics that still spoke to me a generation later, including her emphasis on the concept of the Jewish people and their struggle for liberation during World War II and its aftermath, in the context of other such movements.

Arendt was an advocate of Jewish pride and severely critical of assimilationists. She formulated this in a comparison of the Jewish “pariah”—perhaps an outsider, but proud of who they were—as against the “parvenu,” who sought to gain social acceptance by denying or minimizing their Jewish roots. This last was most scathingly expressed in the conclusion to her review of Stephan Zweig’s autobiography, published after his suicide: “For honor never will be won by the cult of success or fame, by the cultivation of one’s own self, nor even by personal dignity. From the ‘disgrace’ of being a Jew there is but one escape—to fight for the honor of the Jewish people as a whole.”

Reading Arendt was part of the process of developing my Jewish identity, a particular case of a wider search for meaning among my generational cohort. I use the term “cohort” to indicate that I was not alone in my opinions and experience, but I do not mean to suggest that these were typical or common to American Jews of my generation. We were critical of the spiritually empty Judaism of the post–World War II suburbs, and the efforts of Jewish leadership aimed at assuring the acceptance of “Rosh Hashanah Jews” into the American mainstream.

One trend, influenced by the spiritual awakenings of the counterculture, searched for more authentic religious experience and resulted in a spectrum of movements from the strengthening of Chabad to the innovations of Havurot and Jewish Renewal. Another trend that was more political—and there was not always a separation between the political and the religious, with varying degrees of combination—found a Jewish way to join the ethnic pride movement by focusing on the Holocaust, Israel, and Soviet Jewry. Some people took these elements and became right-wing hardliners, such as Meir Kahane and the Jewish Defense League. Others of us turned more to the left, framing Zionism as a Jewish national liberation movement, and placing it in the context of other national liberation movements of oppressed people around the world in the postcolonial era. A pithy summary of our attitude was the slogan in a poster from the period: “Be a Revolutionary in Zion, and a
Zionist in the Revolution.”7 What we understood this to mean was that there was a way to be both a Jew and a progressive social/political activist, and that was to work toward “the revolution” by doing it among our own people in our own land—that is, in Israel one could genuinely participate as a Jew in political issues of Jewish and worldwide importance.

I came to these views in the late 1960s through early 1970s when I was a member of Hashomer Hatzair, a small socialist-Zionist youth group (affiliated with one of Israel’s kibbutz federations, the Kibbutz Artsi) that was adamantly secular, advocated a two-state solution of the Israel-Arab conflict, and encouraged aliya to a kibbutz in Israel as a form of personal and political transformation. But our own ethnic awakening meant that my cohort was also acutely aware of the increased prominence of the Palestine Liberation Organization after the Six-Day War, and accepted the existence of a Palestinian Arab national movement that we would have to confront and make peace with. This meant that we were critical of many of Israel’s policies, particularly of land appropriation and settlements in the Occupied Territories, because we felt this would diminish the possibility of arriving at a peace settlement. Some of this cohort, including myself, immigrated to Israel, living here for greater or lesser periods of time and continuing their social and political activism in various forms. In Israel, we find the interesting phenomenon of American immigrants disproportionately represented on both the far left and the far right of the political spectrum. The commonality between these views is the fundamentally Zionist decision to create a meaningful life by living and acting as Jews within a Jewish polity.

Arendt shared the view that the future of the Jewish people and of Israel were linked, but therefore concluded that it was important to all Jews, not just Israelis, to find a way to co-exist with Israel’s Arab neighbors. In particular, Arendt saw a key problem in the Arab-Israeli conflict as one of competing arguments—what are today called “narratives”—that “make sense only in the closed framework of one’s own people and history,” and, she wrote, achieving peace would “depend upon a changed attitude toward each other.”8 While some of the details of those political struggles had long been settled—particularly the question of Israel’s founding and survival—in my view, many of Arendt’s positions were not only prescient, but are still pertinent. The revival of interest in her Jewish writing (not just this new collection) indicates that others now share this view.

Beyond the specifics of her analyses of the Israeli-Arab conflict, Zionism, or antisemitism, I learned an important perspective from Arendt: being Jewish was an instance of human being, and it was thus important to examine the interactions between Jews and non-Jews. Arendt’s analyses exemplify a methodology in which the particular and the general are intrinsically interwoven, where issues of universal import are revealed only through the consideration of Jewish particularity. This methodology resulted in writings of more than parochial Jewish interest, by way of claiming a universal import to the Jewish experience. She refused to wall off Jewish statelessness and genocide in the Holocaust as a unique event, but insisted that the Nazi genocide “was a crime against humanity, perpetrated upon the body of the Jewish people, and . . . only the choice of victims, not the nature of the crime, could be derived from the long history of Jew-hatred and antisemitism.”9 In her view, the Jews were victims of the Nazis, but they were only the first victims. This is quite in contrast to common forms of modern Jewish history, which tend to be of interest primarily to Jews because Jews are treated either as a “religion” (coreligionists who have no national ties to Jews in other nation-states) or as a “nation” (whose members have been physically dispersed across the globe).

Arendt rejected the politics of victimization that have become so popular today, in which a group seeks to portray itself as wronged and thereby, somehow, absolved of responsibility for the world as a whole and their place in it. She makes this clear at the beginning of “Antisemitism,” which opens The Origins of Totalitarianism, where she demolishes the “scapegoat” and “eternal” theories of antisemitism as ahistorical, pointing out that not only do they contradict each other—the first asserting that picking on the Jews was accidental, the second declaring this was inevitable—but also both “deny all specific Jewish responsibility and refuse to discuss matters in specific historical terms.”10 She contends that “however much the Jewish pariah might be, from the historical viewpoint, the product of an unjust dispensation . . . politically speaking, every pariah who refused to be a rebel was partly responsible for his own position.”11 Arendt particularly lauds the Jewish fighting forces that resisted the Nazis, who shifted from accepting themselves as victims to struggling “to salvage the honor and glory of the Jewish people.” And in doing so they ended the pariah existence of the Jewish people in Europe.12

This praise is of particular relevance, since today we see how supporters of both Israel and the Palestinians compete to portray their side as the greater victim. Arendt’s critiques of Jewish emancipation, of Zionism, and of Jewish leadership rest on the premise that all people, even those who are oppressed, persecuted, and victimized nevertheless bear some responsibility for the world we all co-create.

Most significant to me was Arendt’s approach and attitude: from the 1930s through the 1960s, she was passionately committed to Jewish politics and to the idea that there was a Jewish people, which included all Jews regardless of where they lived or how religious they were. She therefore assumes the existence of
a transnational Jewish polity—sufficiently strong, proud, and secure—that all Jews have an inherent right to engage in the politics of the Jewish community, and through it, in world politics. While she was often critical of Jewish leaders, I think she was a “loyal critic,” in the sense that she always included herself in the community affected by the answer to the fundamental political question: What is good for the Jews? For example, she supported Zionist efforts to create a Jewish homeland in Palestine, but was against statehood (like Martin Buber and Judah Magnes). Despite her opposition to statehood, she was not anti-Zionist in the fashion of some assimilationist or religious Jews, or of non-Jews, such as Arabs, who rejected the Jews’ right to build a national home in Palestine. She seems much more of a Zionist than not, and her criticism follows the lines of the cultural Zionist critique of the state-oriented Zionists. When Arendt is critical, it is because she sees certain policies and actions as bad for the Jews. While I have never agreed with all of Arendt’s analyses, I find this attitude to be a continuing model of Jewish political speech and advocacy.

Having rediscovered Arendt’s forgotten Jewish essays during the research for my undergraduate senior thesis, I thought it would be a good idea to bring out a collection. I modeled this on Illuminations, Arendt’s collection of her friend Walter Benjamin’s essays, which brought him to the attention of the English-speaking world. Arendt’s publisher, Harcourt Brace Jovanovich (HBJ), turned down my proposal. Grove Press accepted my proposal, and as we moved toward completion of the project, HBJ protested, saying that they held the rights because they were Arendt’s publisher. Grove convinced them to let the book be published because HBJ had been offered the project and rejected it. From a business point of view, perhaps HBJ was correct, because after three years the book was remaindered and soon went out of print, despite generally positive reviews. There was no hint of what was to become the Arendt revival in the 1990s.

In preparing The Jew as Pariah, I corresponded with Gershom Scholem and received his permission to include his critical letter to Arendt about Eichmann in Jerusalem (the letter is not in The Jewish Writings), because I wanted to include both sides of their famous exchange. While Scholem agreed to have his letter published, he deplored the book’s title and was especially disturbed because the editor (me) was a Jew. This surprised me, mainly because it meant that he didn’t realize I had borrowed the title from Arendt’s own essay, “The Jew as Pariah: A Hidden Tradition.” I can only infer that Scholem had never read that essay and didn’t understand the positive spin Arendt gave the term pariah.

With the renewal of interest in Arendt in the 1990s, many colleagues asked me about having The Jew as Pariah reprinted; it had become a scarce collector’s item, selling used for over $100. After various inquiries, I got in touch with Jerome Kohn, Arendt’s former student, who had become her literary executor. He was planning an expanded collection, about double the length of the volume I had edited, adding many pieces I hadn’t known about. We collaborated on this volume, The Jewish Writings, which has been translated into various languages, and now Hebrew.

I made aliyah the month The Jew as Pariah was published, in 1978, and was working in the dining room of Kibbutz Gezer when I received the first reviews. Since I was living in Israel, I naturally had a desire to see a Hebrew version published; it seemed obvious that Arendt’s words continued to speak to the contemporary political situation. When I was living at Kibbutz Harel, which was associated with Kibbutz Artzi, I got in touch with an editor from Sifriat Poalim, their publishing house. I sent him a copy of the book; it seemed natural to me that this (supposedly) progressive publisher would find Arendt of value. I guess I was young and naive! In a memorable and unpleasant telephone conversation I was told that they wouldn’t have anything to do with Arendt, who was a soneh Israel—an “Israel hater.” This view seemed baseless and ignorant, but it showed me that in Israel, Arendt remained a pariah, in death as in life. Therefore, seeing the Hebrew version of The Jew as Pariah fulfills a goal of mine that is over 30 years old, and I find it particularly ironic that Arendt is being published by HaKibbutz HaMeuchad, after she was rejected 30 years ago by Sifriat Poalim.

What has changed? No doubt the openness of Israelis to Arendt is made possible by the distance of time and the self-critical perspectives of the “new history” and “post-Zionism” that have developed since the mid-1990s. Certainly Arendt’s views concerning the negative consequences to Jewish Israeli society resulting from the perpetual conflict with the Palestinians seem sadly prescient. These include its military orientation, the debasement of the concept of “the chosen people” into a justification for discrimination against non-Jews, and challenges resulting from the lack of separation between religion and state. Arendt’s ideas about Jewish peoplehood, Jewish interdependence with non-Jews, and rejecting the politics of victimhood provide models for how to engage in Jewish politics that are different from the Israeli civil religion of Holocaust and Masada that portrays the Jews as eternal victims of unending hatred.

Exactly what Arendt would say about contemporary debates, such as the one between a two-state solution or binationalism, is speculative and irrelevant; she would not want her writings to be treated like proof-texts by loyal “Arendtians.” What matters is what we can learn about nonconformist ways of thinking and the position of a “loyal critic.” Just as I learned a great deal from Arendt, I hope that making these writings available in Hebrew will add an element of passionate thoughtfulness to political discourse in Israel, where passion is plentiful, but thoughtfulness and tolerance seem increasingly scarce.
Das Denken des Seins ist die Sorgfalt für den Sprachgebrauch. To think is to care for the use of language.

A tragedy is a goat-song, in Greek τραγ-ῳδία. More precisely, it is a poem, set to music, to be sung and danced at the sacrifice of a he-goat, τράγος, in remembrance of the death of Dionusos, god of life.

A comedy is a revel-song, in Greek κωμ-ῳδία. More precisely, it is a poem, set to music, to be sung and danced at a joyous festival, κῶμος, celebrating the return of Dionusos to the world of life.

Accordingly, the root of both tragedy and comedy lies in the cult of Dionusos. There the sense of each, and the character of their mutual relations, are to be found. The two kinds of drama correspond to two polar ends in the cycle of festive celebrations by which the ancient Greek polis honored the god of life. The cycle of festivities in turn follows the circular movement of life itself, as the ever-recurring alternation of two essential moments, which may provisionally be called the moments of birth and death.

This preliminary observation ought to warn us against our propensity to “think” and speak of dramas in light of the kinds of “feelings” they arouse. Tragic is, by current account, the kind of drama by the sight of which we are moved to sorrow and fear. Comic is what arouses laughter. This representation of drama emerges along with a sweeping interpretation of art in general, as grounded in the experience (Erlebnis) of feeling, αἰσθήσις, aisthesis. The “aesthetic” account of art, now the orthodoxy of all talk of all art, marks the beginning of the end of great art in Western mankind, namely, the turning of art into a means of arousing sensations for the entertainment of masses. Although its fulfillment awaits the age of modern democracy, the “aesthetic” of drama is in fact as old as Western metaphysic. Plato already had found that “manifestly the making of tragedy aims above all at pleasure and the delight of spectators.” The differentiation of dramas by the feelings they produce, comic laughter and tragic sorrow, goes as far back as the classic statement of Aristotle’s poetics. By the time when philosophy was founded, ancient theater had already severed itself from its roots in myth and cult. Tragedy and comedy proper had already ceased to be.

The question of the essence of tragic and comic poetry must therefore be raised anew, not for the sake of a more accurate account of ancient Greek
history, but in order to gain for ourselves a deeper understanding of art and poetry, insofar as they may still harbor a possibility for man in our own age of destitution.

What works of art proper accomplish is the opening of the world in which they stand. They do so by separating gods from ordinary mankind, thereby enabling an encounter of man with the presence and absence of what surpasses him in all respects. So did tragedy and comedy, each in their own way.

If tragedy and comedy are indeed rooted in the cult of Dionysos, then the starting point of our inquiry must be sought in the being (das Sein) of this god, as it reveals itself in myth and practice.

The God of Life

The Greeks experienced life, in their own being as well as in that of other living beings in their world, as an astounding mystery: How could the same “life” that displayed an inextinguishable power to renew itself in the birth of new generations, at once also doom every single offspring of that power to implacable annihilation?

Or, conversely, how could an overwhelming power of destruction also forever be the source of a new blooming of youth and future? The god of life embodies in himself a unity of contrary forces: generation and destruction, birth and death, youth and decay, joy and terror, future and past, day and night, presence and absence.

The contrary movements of life are reflected in the two words that Greek poetry, insofar as they may still harbor a possibility for man in our own age of destitution.

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The contrary movements of life are reflected in the two words that Greek poetry, insofar as they may still harbor a possibility for man in our own age of destitution.

“The same are Hadès and Dionusos, for whom people rave and celebrate the Lēnaia. For this reason, festivals of the wine press, lēnos, took place in Attica and Iônia to celebrate the end of the fermentation of new wine, thus marking the birth of a new vintage. Part of the festival in Athens was a yearly contest of some three to five comic poets; there it was that most of the comedies of Aristophanès were first produced. Thus the birth of comedy coincided with the birth of wine; and both occasioned raving outbursts of joy at the return of Dionysos. Says Hèrakleitos: The god whose “birth” is so celebrated is none other than Hadès, lord of the dead.

The Sacrifice

In Athens, the contest for the prize in tragic poetry was the centerpiece of another festival, the “town Dionusia,” τὰ κατ’ ἄστυ Διονύσια, dedicated to Dionysos Eleuthereous, also known as “Clad in a Black Goat-skin,” Μέλαναγης. The festivities began with a procession that reenacted the coming of Dionysos to Athens from the mountain village of Eleutherai, on the border of Boiôtia, in the shape of a wooden statue of the god, seated in a boat equipped with wheels. The procession carried the statue to the site of the theater. It was followed by a contest of dithyrambic poets, and by the sacrifice of bulls (perhaps also of a black goat) on an altar in the theater. Five days were then devoted to the performance of competing tragedies.

Sacrifices to Dionysos had all the appearance of any other such offerings to the gods. The slaughter of a sacrificial animal marked the beginning of a feast at which a people invited their god to share with them a great meal, and drink and sing and dance, as one does on such rare and joyful occasions. Small parts of the animal, mostly bones covered with layers of fat, were burned so that smoke and delightful aromas would rise to the sky and please the god. Most of the flesh was then roasted and shared among worshippers, an exceptional treat for a people who could seldom afford to eat meat.

Underneath this ordinary show, however, sacrifices to Dionysos were laden with mostly hidden, yet well understood thoughts of a most unusual and utterly somber kind. They concerned ἄρρητα, “unspeakable things,” about which ancient piety observed a rigorous silence. Whatever is said about them in literary sources disguises the truth, even in the little it reveals by indirection.

The truth was that the sacrifice to Dionysos was at once also the sacrifice of Dionysos, in the double sense that the god himself was the sacrificial victim (genitivus subjectivus), and that he perpetrated the victim’s killing (genitivus objectivus). It will not do here to say the sacrifice “commemorated,” or “reenacted,” or
otherwise “represented” the dying and murderous god. This would only force distance between the worshippers and their deed. The god was actually present in the animal victim—bull and goat were among his favored ways of appearing in the world—as well as in the cruelty of his worshippers.

How did the victim endure death? To all appearance, by bleeding after a swift incision in its throat, the same painless way that usage prescribed for sacrifices to other gods. But behind this rather benign practice, there persisted a memory, preserved in vase paintings and poetry, of other places and times immemorial when the killing was truer to the god’s ways. The live animal was torn apart, limb after limb, and its flesh was eaten raw. Ἐπαραγμός, “dismemberment,” and δαμαργία, “raw-devouring,” followed the god’s example. Such was the way that Dionysus Zagreus—Ἰά-ἵπτεις, “the great hunter,” or ὄ-ἵπτεις, “who catches alive”—killed and ate prey. So did also the women who nursed the god after the death of his Theban mother, Semelé, and who became his most devoted followers. Possessed by the god, the “maenads,” mad women, would be driven in a frenzy to tear apart the young that they had been suckling, even their own sons.

Such was, above all, the way Zagreus himself was dismembered and devoured by the Titans, when Hêra sent them to kill him. Greek gods do not stand above and beyond the world over which they rule. They endure the law by which their domains are constituted. They are their domains. So must the god of life suffer what he inflicts upon his own offspring.

Under the apparent bleeding and roasting of the sacrificial victim, lay dismemberment and the devouring of raw flesh. But dismemberment itself veiled the truth it revealed. The god was “torn apart.” He “died,” to be sure, as he must indeed insofar as death belongs to the essence of life. But he must die in such a way that he can and will “reawaken” in a new birth. As ἐς, mortal life is an eternal promise of new birth. Legend told that a part of the god’s body escaped being devoured by the Titans: Athena succeeded in saving his “heart,” καρδία, and bringing it back to Zeus. From this heart, he would revive and return to the world.

The Return

What was the “heart” of Dionysos? In what sense did myth speak here of the god’s heart? Wherein lies the “heart” of life as ἐς? Answer: The heart of ἐς is the power of generation. The god’s “heart” was his male genital organ, the φαλλός, in Roman spelling phalus, often named as a divinity, Φαλῆς, Phalès, the constant companion of Dionysos.

We gain insight into this matter from what we know of the celebration of his return. How Dionysus recovered the wholeness of his body remains shrouded in mystery, as indeed it had to remain, utterly unsayable. Woman bore a special responsibility to attend to the healing. Her native disposition to care for the nurture of life was thereby consecrated in both myth and cult. In Delphi, the god’s nurses would “awaken the child” in midwinter on the heights of Mount Parnassos. In Athens, at the Anthestèria—the festival that celebrated the first flowers of spring—when the god newly born would return from the house of Hadès, the queen was united to him in a “sacred wedding.” She was publicly escorted to the threshold of the bridal chamber, but she alone was privy to the ceremony that followed.

In any event, the manhood of Dionysus was manifestly restored. While he was absent in Hadès, the god’s image in the cult consisted of a mask—the characteristic form in which the soul of the dead would appear—hung on a column or pillar, wrapped in a long veil suspended under the mask like a robe. The most common representation of the god in vase paintings, as a tall bearded man dressed in a long robe, is a kind of animation of his dead image. The robe would hide his wound and convey his “effeminacy.” After his return he was carried by men in festive processions, called φαλλοφόρια, phallophoria, in the form of a giant erect phallus, accompanied by the singing and dancing of “phallic songs,” φαλλακαμέλη. Such was the revelry, κάρτιος, out of which “comedy” would emerge.

So did perishing life find its way to eternal resurgence. So did mortal man acquire a share of divine immortality. “Procreation is a divine act, since conception and generation are an immortal power inherent in mortal beings,”8 says even Diotima in her thoroughly sophistic account of the matter. Plato does not even mention the name of Dionysos.

The Element of Drama

Just as comedy sprang out of the phallic song, as a celebration of the god’s return, so did tragedy, insofar as we can tell, emerge out of the διθύραμβος, dithurambos, as the ritual song and dance of Dionysian sacrifice.9 Common to both tragedy and comedy, in relation to their respective ancestors, was the introduction of an element of drama into worship.

Dithurambic poems were devoted to the narration of great events in the life and death of the god, and of ancient heroes in whose suffering the god himself was present in some way. In Athens, when Dionysus returned from Hadès to the living world at the Anthestèria, he opened the doors of the world below, and was followed by the souls of dead heroes who came back to
visit the living and drink of their new wine. Along with the rebirth of ζῆ, there occurred a reawakening of the heroic past of present-day mankind, and thus a reopening of its future as a heroic destiny of glory and death.

Drama, enacted in spoken words, “came in addition,” episodically, ἐπεισόδιον, to the singing and dancing of the dithyrambic chorus or phallic procession. It enabled worshippers to witness a living repetition of the events hallowed in song. With drama first opened a theater, θεάτρον, as the site of a visible appearance of the god, a θεός τοῦ θεοῦ, then του θεοῦ. Theater proper offered virtually nothing of the thrill and intrigue that modern spectators expect from dramatic entertainment. It would all too soon fall prey to the taste of its public.

The Unity of Tragedy and Comedy

Tragedy and comedy are thus bound into a unity as inseparable as the eternally recurring moments of the cycle of ζῆ, and the alternation of sacrifice and festive return in the cult of Dionusos. Any one-sided approach to either end would misunderstand both and border on the commission of sacrilege. So much so that Athenian law required composers of tragedy to break up the presentation of their trilogies with a short play of Σάτυρος, a comic interlude with a chorus of Satyrs. These were mythic companions of Dionusos, mostly human, with animal features taken from horses or goats, usually portrayed in a state of erotic excitement, displaying a large erect phallus. Both tragedy and comedy lose their essence as soon as their unity falls out of sight.

For modern man, who has lost all understanding of Dionian rapture, comedy is perhaps even harder to grasp than tragic mystery. The heart of comedy is not laughter as such, but the exuberant—and exhilarating—projection of a fantastic future for man, in a new world conceived out of “phallic” attunement to the life-giving power of Dionusos, and released in “divine frenzy,” μανία θεία,10 from all standards of plausibility and customary norms of conduct. It extends parody and satire to what is most highly regarded in the ordinary world, including the gods, and even Dionusos himself, whose want of manhood and courage it mocks unrelentingly. All manners of effeminacy become the butt of obscene jokes and gestures. Exuberance shows itself above all in the rapidity and richness of comic language: an abundance of words and images is delivered at the quickest pace, with abrupt and wide variations of meter and music, and in delightful lyrics of all kinds, ranging from the most pious to the most insolent, from malice to utter tenderness.

In tragedy, the exuberance of ζῆ runs into collision with the unbending decrees of μοῖρα and δίκη.11 The longing of the hero to exceed the limits of humanity and attain a measure of divine glory must ever again endure defeat. Playful fantasy gives way to the treachery of semblance and ruin, ἄτη. The power of self-surpassing life turns into self-destructive ἱμβρίς. Dionusos, son of Zeus by a mortal woman, is the god in whom mortal existence reaches eternal resurgence. Through him, and by their own brilliance, the gods invite man to rise above himself. Yet in no case can the difference between man and god, mortals and immortals, admit any bridge. Blurring it would extinguish the striving of life. Cruel as it may be, the divide must forever bring man to undergo the sacrifice of Dionusos. In no way can the tragic end of a hero be conceived as punishment for a sin; all moral, i.e. Christian concepts are here entirely out of place. To the Greek mind, ζῆ, hubris, ἄτη, μοῖρα are simply facets of the wonder of being (das Sein) as φύσις, “what grows” out of the earth in the light of the sky.

So did key words and major themes of Iliadic heroism find a way to reinterpretation in Dionianus tragedy, and come to be regarded themselves as «tragic,» although tragedy proper did not emerge until two centuries after Homer, and then only in Athens.

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3. The factual assertions made in this lecture represent nothing that has not long been well established. They require no novel documentation. Details of the literary evidence are gathered in Walter Otto, Dionysos: Mythis und Kult; archaeological sources are presented and discussed in Karl Kerényi, Dionysos: Archetypal Image of Indestructible Life (Princeton: Princeton University Press, 1976). The latter must be used with caution, because of its tendency to "Christianize" ancient Greek history.

4. Plato, Gorgias, 562 b.

5. Aristotleles, Peri Poïetikês, 1449 a and b.


8. Plato, Symposium, 206 c.


11. Δίκη is the sister of Moira. Hesiod, Theogony, v. 901-906. She holds every being (Seiende im Ganzen). Her name is "She Who Shows," from the verb δείκνυσι, she has nothing to do with Roman jus, the domain of which is confined to human affairs. Every temptation to translate it with words derived from jus—justice, judgment, etc.—must be resisted.
Representative Democracy in Crisis

Roger Berkowitz

Representative government is in crisis today, partly because it has lost, in the course of time, all institutions that permitted the citizens’ actual participation, and partly because it is now gravely affected by the disease from which the party system suffers: bureaucratization and the two parties’ tendency to represent nobody except the party machines.
—Hannah Arendt, “Reflections on Civil Disobedience”

We are witness to a worldwide rebellion against representative democracy. In Hungary, Russia, Turkey, and Austria, elected leaders flirt with authoritarian rule. Across much of Western Europe, right- and left-wing parties condemn the weakness of democratic regimes. In the United States, Donald Trump rails against a rigged system and Bernie Sanders calls for a revolution. Around the world, democratic governments are seen to be weak, inefficient, and undemocratic. The great political achievement of the modern era—stable representative democracies that legitimize power—is everywhere under attack.

Distrust of democracy is not simply anecdotal, but is reflective in worldwide surveys as well. Analyzing survey data from the “World Values Surveys, Waves 5 and 6 (2005–14),” Roberto Stefan Foa and Yascha Mounk write in The Journal of Democracy that, “Citizens in a number of supposedly consolidated democracies in North America and Western Europe have not only grown more critical of their political leaders. Rather, they have also become more cynical about the value of democracy as a political system, less hopeful that anything they do might influence public policy, and more willing to express support for authoritarian alternatives. The crisis of democratic legitimacy extends across a much wider set of indicators than previously appreciated.” Citizens in democracies, especially younger citizens, increasingly oppose freedom of speech, question the legitimacy of democratic institutions, and agree with the claim that democracy is a “bad” way to run their countries. As Foa and Mounk write, “Even in some of the richest and most politically stable regions of the world, it seems as though democracy is in a state of serious disrepair.”

No thinker can better help understand our present democratic disillusionment than Hannah Arendt. Arendt was a lifelong skeptic when it came to representative democracy in sovereign nation-states. This did not mean that she supported authoritarian regimes. On the contrary, Arendt saw the weakness of representative democracy as dangerous precisely because it could be
subverted and replaced by illiberal movements. Her goal was not to do away with representative democracy, but to supplement it.

The problem with representative democracy is, first, that citizens willingly give up their rights to govern themselves; representative democracies turn the hard and time-consuming work of self-government over to professional politicians. And second, in representative democracy, professional politicians are chosen not for their qualifications, but for their loyalty as party members. In return for supporting these political jobbers, citizens are freed to spend their time on private pursuits like making money and raising a family. The people need only bother themselves with questions of governance a few days a year around election time.

In Arendt’s telling, the rise of representative democracy is tied to the corrupting influence of the bourgeoisie. The bourgeoisie cares more about private concerns than public obligations. It does not want to be bothered with government, but it wants government support for its enterprises; it wants the army to protect its investments overseas, the police to keep order, and a civil service to regulate the market. The bourgeoisie outsources governance as corporations outsource labor.

The danger from bourgeois representative democracy is the dissipation of public power. Most liberal-minded people today are fearful of public power. We say power corrupts, and absolute power corrupts absolutely. Against this cautionary view, Arendt argues that responsible power is a necessary and salutary quality of responsible politics, one that should rather be augmented than limited.

Power, Arendt writes, is not the same as strength or violence. Strength is something individuals have on their own. Violence is the coercive use of means for a political end. Power is neither isolated nor coercive. As she writes in her book-length essay *On Violence*, “power corresponds to the human ability not just to act but to act in concert.” It is the specifically human capacity for acting together with others. Power exists “wherever people gather together.” All human flourishing is the product of power. In other words, power is the freedom to act together to create a common world with others.

If power is connected with freedom, then power must be preserved and even augmented. A government by elites, experts, and representatives who do not actually listen to the people, actively disempowers the people. What is needed is a new idea of government that augments power without leading to tyranny.

Only in the United States, Arendt argued, did a limited constitutional democracy exist together with the experience of public power. In her book *On Revolution*, Arendt writes, it was the “great good fortune of the American Revolution” that the colonies, prior to the Revolutionary War, “were organized in self-governing bodies.” The American concept of power originates in this practice of participatory self-government. “What was lacking in the Old World were the townships of the colonies,” Arendt noted, citing one European observer who wrote that “the American Revolution broke out, and the doctrine of the sovereignty of the people came out of the townships and took possession of the state.”

A central thesis of *On Revolution* is that the experience of self-government that characterized American self-government was the result of “the new American experience of power.” Of course power had existed elsewhere; but only in America did governmental institutions emerge through which everyday citizens regularly experienced the power of acting together with others. By habituating citizens in the practice of self-government, the American government created a foundation of power that depended upon and nurtured virtuous citizens.

The existence of multiple institutions of power across the country and at all levels of government allowed the United States to actualize democratic power without falling into tyranny. The 1787 U.S. Constitution did not create a centralized government that overpowered state governments. Instead, by embracing a federalist spirit that empowered states, counties, and the federal government, the Constitution created a balance of powers so that no one center of power would be sovereign. Arendt emphasizes the founders’ fundamental conviction that only multiple sources of power can prevent one power center from overseeing the others. To prevent tyranny, “power must be opposed to power,” an axiom of free government that Arendt derives from John Adams in *On Revolution*. The dispersed and decentralized federalist principle, she writes, again in *On Revolution*, is “the great and, in the long run, perhaps the greatest American innovation in politics.”

Arendt called the American discovery of a way to preserve power and freedom the treasure of the American Revolution. She thought, however, that the treasure of freedom had been lost. Already in the 1960s, she saw that centralization of power in the federal government had transformed the United States into a sovereign state. Arendt worried that the country was trading its unique historical experience with power for a sovereign government by paid representatives. She argued that this rise of a technocratic and bureaucratic government was the greatest threat to American freedom.

The present rise of authoritarian movements is, in part, the result of the breakdown of power and authority. When power and authority fail, what emerges is what Arendt calls a revolutionary situation. A revolutionary situation need not lead to revolution. It can also lead to a counterrevolution, the
rise of a dictatorship. Or it can simply lead to anticlimax, lots of anger and protest but without any meaningful change.

We have been in a revolutionary situation in the western democracies for more than half a century. The result of such a situation is uncertain, and there is no guarantee that a revolution will happen. But Arendt makes manifest that if we want to bring about a revolution, we first need to understand that the revolutionary situation is a result of a radical loss of power throughout society. What is needed is neither violence nor protest, but a new experience of power that can be institutionalized into a new idea of government.

Home, Homelessness, and the Human Condition
December 27, 2015
http://www.hannaharendtcenter.org/home-homelessness-human-condition/
Samantha Hill

Wohl dem, der keine Heimat hat; er sieht sie noch im Traum.
Blessed is he who has no home; he sees it still in his dreams.
—Hannah Arendt, Denktagebuch

What does it mean to be “at home?”

Home is a dynamic concept in Hannah Arendt’s work. Throughout her writing, the concept home takes on different meanings in different contexts. Often, home is bound to its negative counterpart: homelessness. The Human Condition forces us, alongside of Arendt, to ask: What does it means to be at home in the world? “The world,” she writes, “the man-made home erected on earth and made of the material which earthly nature delivers into human hands, consists not of things that are consumed but of things that are used.” Nature and earth provide the materials that we use to build a “world of things,” and it is this “world of things” that creates the unique conditions for human life. The durability of the things we create allows us to make a home here, and our home sustains us with the apparatus necessary to give form and meaning to daily life.

Arendt assures us, “But without being at home in the midst of things whose durability makes them fit for use and for erecting a world whose very permanence stands in direct contrast to life, this life would never be human.” The quality of durability is contrasted with the condition of human life, which is ever changing and impermanent. In this passage, it is the resilience of the things that we build in the world that allows us to be human, and offers us the assurance that we can contribute to the lasting artifice of the man-made world.

A house, which we most often associate with home, is a work of architecture. It is built to be durable and lasting; it is meant to provide us with a private refuge from the “world of things.” In discussing the public and private realms, Arendt speaks of home as the oikos in relationship to political life. “According to Greek thought, the human capacity for political organization is not only different from but stands in direct opposition to the natural association whose center is the home (oikos) [sic] and the family.” The private space of home is necessary in order for the “second life” of bios politikos, “public life,” to exist. Here, we see
it is not just home in the sense of being at home but also the physical necessity for a house that allows us to exist privately, and to emerge publicly.

In the modern world, Arendt argues, the “home” is necessary to give shelter to the more intimate areas of life unsuitable for public appearance. “The intimacy of the heart, unlike the private household, has no objective tangible place in the world, nor can the society against which it protests and asserts itself be localized with the same certainty as public space.” For instance, love—the intimacy of the heart—belongs to the private realm of human affairs and does not belong in the world; it cannot be shared in common. The private household, however, does have a place in the world, that of an artifice that gives shelter to private life and allows us to give shelter to our humaneness.

Home is not always bound to material structures or to the natural materials that allow us to create a “world of things.” For Arendt, home also means the elements of life that make daily life livable. In both “We Refugees” and the Denktagebuch (thought journal), we see a different valence of the idea of “home” in Arendt’s writing. Here, her home is separated from its spatial, material conception and becomes a place to which she—and we—cannot return. Home exists in memory, in dream; it exists in the very states of loss and longing. The loss of home in these texts is related to a loss of the world and humanness. National Socialism collapsed the boundaries between public and private life, destroying all components of home—both the material and the immaterial.

In Arendt’s essay “We Refugees,” which she wrote in 1943, two years after she emigrated to the United States, home is spoken of as something lost. The unusually ironic essay reflects upon the condition of “refugees,” the number of Jewish people that committed suicide during and after the war, and the dichotomy between pariahs and parvenus. She writes:

The story of our struggle has finally become known. We lost our home, which means the familiarity of daily life. We lost our occupation, which means the confidence that we are of some use in this world. We lost our language, which means the naturalness of reactions, the simplicity of gestures, the unaffected expression of feelings. We left our relatives in the Polish ghettos and our best friends have been killed in concentration camps, and that means the rupture of our private lives.

Home in this sense gestures back to the Latin *habitus*: the familiarity of patterns, the physical appearance of one’s self in the world, and the house as a material structure. Arendt’s list of losses reaches into the core of humaneness and what makes life livable in this world. We see that home is not so much a place as it comprises the things that give form, stability, and reliability to one’s daily life. It is language, familiarity of place, and the ability to express one’s feelings without hesitation.

In a poem from the Denktagebuch, written a few years later in 1946, Arendt reflects more ominously on the fragility of the structures that we commonly understand as home.

*Ich weiss dass die Strassen zerstört sind.*
*Wo leuchtet die Wagenspur, die wunderbar unversehrte aus anden Trümmern hervor?*
*Ich weiss, dass die Häuser gestürzt sind.*
*In sie traten wir in die Welt, wunderbar sicher, dass sie beständiger als wir selbst.*
*Ob der Mond, den wir diesmal vergessen,*
in *seinem beständigeren Licht*
der *Pferde Huferd noch mitträgt*
wie ein Echo aus des Flusses schweigendem Gesicht?*

I know that the streets are destroyed.
Where shines the wagon tracks, wonderfully untouched
Out from Ancient ruins forth?
I know that the houses have fallen.
In them we entered the world, wonderfully sure, that they were sturdier than we.
Whether the moon, we forgot this time,
in his steadier light
still carries soil from the horse’s hooves
like an echo from the river’s silent face?
(Translation by Samantha Rose Hill, 2015)

Here, we see Arendt poetically struggling with the reality that those artifices that give durability to worldliness and humanness can be destroyed. She recognizes that they are not sturdier than we. The world that we make is necessary for being human. It is a world shared in common through human creation that allows us to exist together, and affords us the promise of solitude. The durability of this man-made world—the language, the tradition, the buildings, and institutions—allows us to be together, to be human together. Just as the durability of the world of things is contrasted with the impermanence of human life, in this poem the artifices of worldliness—streets and houses—are
Feel the Bern: Understanding the Spirit of Political Revolution
February 21, 2016
http://www.hannaharendtcenter.org/feel-bern-understanding-spirit-political-revolution/
Dawn Hererra Helphand

The failure of post-revolutionary thought to remember the revolutionary spirit and understand it conceptually was preceded by the failure of the revolution to provide it with a lasting institution.
—Hannah Arendt, On Revolution

Among the surprising elements of the Bernie Sanders campaign is the candidate’s unapologetic call for a “political revolution” and the electorate’s apparent response. The radicalism of the term revolution and the unexpected breadth of its appeal ought to give us pause. Arguably, “general dissatisfaction, widespread malaise, and contempt for those in power”—the political sentiments that Hannah Arendt identified as revolution’s causes—are much more widespread among voters in both parties than had been previously thought.

And yet, thinking with Arendt’s treatise On Revolution, we find that this quality of unexpectedness is to be expected; not even the “professional revolutionist” expects the revolution. In the same work, reading Thomas Jefferson, she presciently identifies the apparent grounds of this malaise in what Jefferson calls the “corruption and perversion” of the representative organs when private interests invade the public domain. The founders were well aware of the dangers that public power poses to private life—the Bill of Rights responds to that concern. “However,” Arendt writes,

under conditions, not of prosperity as such but of rapid and constant economic growth, that is, of a constantly increasing expansion of the private realm . . . the dangers of corruption were much more likely to arise from private interests than from public power.

According to Arendt, toward the end of his life, Jefferson increasingly worried about the danger private interest poses to republican government. She posits that the remedy is to be found in authentically public action, “in the light which exhibits each deed enacted within its boundaries, in the very visibility to which it exposes all who enter it.” Late in life, she argues, Jefferson came to a similar

contrasted with the undestroyed train tracks. Tracks that ironically remain as the something created that can bring beings together, or transport them toward death. Through things, we can create a durable world, and we can also destroy it.

How can the world exist if it cannot endure? If we cannot trust those things we thought more durable than ourselves, then what can we trust in the world? And if we cannot trust in the world, then how can we make a home here?

National Socialism and the invention of the atom bomb threatened the very existence not just of the world, but of earth and humanity. How can we be human if we can no longer ensure the durability of the “world of things”?

In another poem from Arendt’s Denktagebuch, written the same year, she observes:

Die Traurigkeit ist wie ein Licht im Herzen angezündet,
Die Dunkelheit ist wie ein Schein, der unsere Nacht ergründet.
Wir brauchen nur das kleine Licht der Trauer zu entzünden,
Um durch die lange weite Nacht wie Schatten heimzufinden.
Beleuchtet ist der Wald, die Stadt, die Straße und der Baum.  
Wohl dem, der keine Heimat hat; er sieht sie noch im Traum.

Mournfulness is like a flame lit in the heart,  
Darkness is like a glow that leads us through the night. 
We only need to ignite this small light of grief, 
To find home, like shadows, across the long vast night. 
The forest is illuminated, the city, the street, and the tree. 
Blessed is he who has no home; he sees it still in his dreams.  
(Translation by Samantha Rose Hill 2015)

Without the promise of durability in the world, how might we find home? Find the home of our world shared in common, find the private room for retreat?

In this poem, it is our mournfulness and grief that guide us, always searching, moved by those absences and spaces that enable a feeling for home. The idea of home as a world shared in common, and the experience and feeling of home, can exist beyond the fragility of material conditions. If anything is certain, it is that the streets continue to be destroyed, the houses torn down—war, genocide, hatred, and violence are what seem to endure.
have shown us the infrastructure of private power that money can buy. As she reads history, such “popular organs”—“organs of order as much as organs of action”—spring up organically and spontaneously in times of revolution, and they are just as reliably smothered by party systems. Like historians and philosophers, the professional revolutionists who assume leadership misunderstand revolution. Its spirit—the desire for an order that fosters public freedom and public happiness through public action—is obscured by the idea that revolution is a means of securing control of the state and its instruments of force. For Arendt, the “spirit of revolution” concerns not merely the replacement of one ideology or one power-holder by another; it is the animating hope of our capacity for public life.

On Revolution is Arendt’s lament that like the French Revolution and the Russian Revolution, the American Revolution failed to secure a public realm adequate for the preservation of its spirit. Jefferson’s idea of a ward system was meant to emend a governmental structure that nominally located power in the citizenry but effectively limited citizen action to the vote such that “there was no space established for them in their capacity of being as citizens.” Party operatives and elected representatives actualize the work of government. The citizen is limited to her consent and refusal on Election Day. The aforementioned “corruption and perversion” are not the only consequences of this lack of public space. There is also the danger of mass refusal on Election Day. The aforementioned “corruption and perversion” are not the only consequences of this lack of public space. There is also the danger of mass political movements, a threat that feels especially pressing these days.

The United States’ sole exception to this, according to Arendt, is the party primaries. If her analysis is correct, it is no accident that we are seeing such unexpected civic action played out in this forum in both parties. Here, our actions seem to matter. This returns us to Sanders’s call for “political revolution.” In speeches and literature, it is cast explicitly in terms of a change in political systems, the deposition of an oligarchy in favor of a democracy. His campaign is actively channeling the desire for a more public governmental order.

Arguably, though, it was also this hunger for a national public that carried Barack Obama to the presidency on a similar tide of hope and small donations. If the past seven years have proven anything, it is that executive action is both driven and limited by the support that scaffolds it, be it public or private. Regardless of who is in office or the terms of their appeal, the motive force of public power will require institutionalized public space to rival the PACs and K-Street, forces that have shown us the infrastructure of private power that money can buy.

Thus, the relevant question is what will become, what can become, of a candidate-driven revolution after the vote. With its ends determined by the parameters of the campaign, what “new public space for freedom” could it create?

Conclusion, as he seized on the ideal of a government founded on hyper-local councils. The structure of these “wards” would secure for all citizens a space of freedom, that is, a standing opportunity to judge and act politically.

Education Without Authority
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http://www.hannaharendtcenter.org/education-without-authority/

Jennie Han

Education is the point at which we decide whether we love the world enough to assume responsibility for it and by the same token save it from that ruin which, except for renewal, except for the coming of the new and young, would be inevitable.

—Hannah Arendt, “The Crisis in Education”

Education carries a heavy burden for Hannah Arendt. As in politics, we declare our love for the world, both our own world and the world of future generations. To say that education is in crisis, then, is for Arendt not to lament the fact that “Johnny can’t read.” It is to acknowledge a generalized dissatisfaction with and alienation from the world that has us say to our children, “[i]n this world even we are not very securely at home. . . . You must try to make out as best you can; in any case you are not entitled to call us to account. We are innocent, we wash our hands of you.” So alienated, one might still be qualified to teach if one had adequate knowledge of the subjects, but one has no authority to teach. For in rejecting the responsibility that allows one to say convincingly to the child, “This is our world,” one is in no position to teach the child to accept her responsibility for the world in the future.

For Arendt, teaching such responsibility lies importantly (and perhaps somewhat surprisingly) in maintaining a space of privacy for children. Children—“human beings in process of becoming but not yet complete”—require “special protection and care so that nothing destructive may happen to [them] from the world.” In the process of becoming, children need the “security of darkness,” free from the harsh gaze of the public, to mature, and as such, their “traditional place,” according to Arendt, “is in the family, whose adult members daily return back from the outside world and withdraw into the security of private life within four walls. This claim evokes the much more familiar—and infamous—argument that Arendt makes in “Reflections on Little Rock.” In that essay, Arendt limits children entirely to the private sphere of the household in order to give parents exclusive control over the schools their children would attend, even if such control maintains and justifies school segregation.

Recording school segregation.
In “The Crisis in Education,” however, Arendt’s call for “security” doesn’t imply keeping children from the adult world. Rather, it is a call for education to facilitate “the natural relationship between grown-ups and children” (emphasis added) in order to introduce children into the world. Children are developing, and it is our responsibility, through education, to nurture this development as becoming a part of the world. Indeed, Arendt has a harsh view of adults who would abdicate this responsibility. To leave children on their own, she argues, would be to subject them to “a much more terrifying and truly tyrannical authority, the tyranny of the majority.” For without the sense of responsibility and ownership for the world that education can provide, children are but objects of the world and its whims.

For Arendt, education is ultimately as much about our love for the world as it is a program of training children in particular subjects. Both children and grown-ups are constituent members of the world, each group in its own stage of membership and responsibility. This project of education imbues it with a gravity that goes beyond the question of whether individual students can read or not, and for students of all ages, it pushes education beyond the question of whether students are getting the “skills” they need to be successful in the world. But missing from Arendt’s highly suggestive take on education is a clear description of what “education” informed by a love for the world looks like. Aside from some brief remarks about the uselessness of pedagogy, she has left us with what seems to be her advocacy for a kind of hierarchical mentorship program in which learning must be guided by an authoritative figure. And we are left with this largely because the alternative—a realm of children in the absence of authority—is simply dismissed as a realm of tyranny.

In making adult authority so central to education, Arendt releases us from the crucial task of examining whether or not individuals and institutions should have this authority. She obscures both the potential that lies in an introduction to the world free from the authority of adults and, correspondingly, the pitfalls of relying too heavily on responsible adults to guide children into the world. Arendt speaks of the authority of adults as though it were simply a way that one might inspire children to become responsible for the world. However, authority has the potential to overwhelm and overpower, as it might empower, perhaps even more so for children. It is hard not to be swayed by those who have authority over us, and to rely on this relationship to help children develop into adults seems blind to the ways in which power is transmitted through authority.

I see in many of my university students in South Korea adults who, as a result of having been heavily, if not entirely, educated through relationships with parents, teachers, and tutors, continue to see their adult roles not so much as responsible authorities themselves as individuals who continue to need relationships to caretakers. This is not simply about students being “immature” or wanting everything handed down to them without working hard—common criticisms of university students throughout the world. The students whom I encounter are smart and talented. But as Arendt notes, education is not simply about knowledge, and it can’t be simply about intelligence. The problem here, I want to suggest, lies in an educational program that has taken an Arendtian model of education through authority too much to heart to recognize that a realm of children without adults might offer children lessons in responsibility that are simply not possible in hierarchical relationships.

For children, a world without adults is a world of equality, a sphere in which they might confront early on the experience of learning as well as teaching, ruling as well as being ruled, and with it, the experience of politics and action, as well as world making. The tyranny of the majority is, as Tocqueville noted, a major potential pitfall of equality. It is understandable that Arendt would try to guard against this pitfall. But the faith Arendt seems to have in hierarchy to “teach” equality is curious, if not outright dangerous and wrong, as her initial conclusions about school desegregation reveal. And if the cost of shielding children from the potential dangers of equality is to shield them from the early experiences of equality, that might be too high a price. It would deprive them of the elementary experiences that prepare them for a life of action, politics, and responsibility, together as new adults in a world that must be constantly renewed by children becoming its caretakers.
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