Affirmative: Societal Good

By Kirstin Erickson

***Resolved: In democratic elections, the public’s right to know ought to be valued above a candidate’s right to privacy.***

As the affirmative, you are the first person the judge will listen to, and thus you get to set the tone and the focus of the round. This case capitalizes on that fact. It opens with multiple reasons to prefer the value of societal good, followed by a strong bases for linking that value with the right to know. The second contention only has one card of evidence, but that’s because you can use logic to show the reverse of the first contention. If the public’s right to know is limited because of privacy, then the benefits to society are limited as well. Keep emphasizing this to the judge, asking them to vote for the side that will be best for society as a whole, and you’ve got a persuasive case for your side.

Affirmative: Societal Good 2

DEFINITIONS 2

Privacy 2

Right to Know 2

VALUE: Societal Good 2

Definition of social good 2

Reason to Prefer: Democracy depends on concern for the common good 3

Reason to Prefer: A flourishing society is the ultimate purpose of government 3

CONTENTION 1: Prioritizing the right to know benefits society 3

The right to know has benefits for individuals and society 3

Information is necessary for society to flourish 4

The benefits of information in the public’s interest justify exposing that information 4

Information is necessary for humans and society to function properly 5

CONTENTION 2: Prioritizing the right to privacy harms society 5

It is problematic if voters do not have the information they need 5

Negative Counter-Brief: Societal Good 6

Privacy promotes societal good 6

Protecting the right to privacy is not only constitutional, but also promotes important societal interests 6

Privacy is a foundational human good 6

Privacy is a public value as well as an individual value 7

Societal good is outweighed by more important concerns 7

Violations of privacy are violations of human dignity 7

Privacy is an integral concept for democracy 8

Works Cited 9

Affirmative: Societal Good

When our Founding Fathers crafted the Constitution, they listed their goals in the Preamble: “We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.” Because a democracy must always do the best thing for society, please join me in affirming that: In democratic elections, the public’s right to know ought to be valued above a candidate’s right to privacy.

DEFINITIONS

Privacy

Alan Westin 1967 (Alan Westin was a Professor of Public Law & Government Emeritus at Columbia University, former publisher of Privacy & American Business, and former President of the Center for Social & Legal Research) “Privacy and Freedom”

The claim of individuals, groups, or institutions to determine for themselves when, how, and to what extent information about them is communicated to others.

Right to Know

Dictionary.com “Right-to-know” <https://www.dictionary.com/browse/right-to-know>

“Of or relating to laws or policies that make certain government or company data and records available to any individual who has a right or need to know their contents.”

VALUE: Societal Good

Definition of social good

Will Kenton 2019 (Will Kenton received his Master of Arts in economics at The New School for Social Research and his Doctor of Philosophy in English literature at New York University. He has written about money and culture for over ten years, including developing Investopedia's Anxiety Index and its performance marketing content initiative, former managing editor of Kapitall Wire, editor-in-chief and lead contributor to Cultural Capitol) “Social Good” <https://www.investopedia.com/terms/s/social_good.asp>

A social good is something that benefits the largest number of people in the largest possible way, such as clean air, clean water, healthcare, and literacy. Also known as "common good," social good can trace its history to Ancient Greece philosophers and implies a positive impact on individuals or society in general.

Reason to Prefer: Democracy depends on concern for the common good

Waheed Hussain 2018 (Waheed Hussain is Associate Professor in the Department of Philosophy at the University of Toronto. His research interests lie mainly at the intersection of moral and political philosophy, economics and business. He did his undergraduate degree at Princeton University and his doctorate at Harvard University. A former fellow at the Safra Center for Ethics at the Kennedy School of Government, Professor Hussain was a Laurance S. Rockefeller Visiting Faculty Fellow at Princeton in 2013-14. His work has appeared in a variety of academic journals, including Philosophy & Public Affairs, Economics and Philosophy, Journal of Business Ethics, Business Ethics Quarterly, Social Theory and Practice and the Journal of Moral Philosophy. Before coming to Toronto, he was an assistant professor at The Wharton School of the University of Pennsylvania) “The Common Good” <https://plato.stanford.edu/entries/common-good/#CommGoodPoliDemoCollDeciMaki>

In the vast literature on the common good, several topics stand out as important subjects of concern. One important topic is democracy. Democracy figures prominently in philosophical reflection about the common good because there is broad agreement among philosophers—though by no means universal agreement!—that a private society would be defective in terms of the way that members make collective decisions. Collective decision-making in a political community must unfold in its public life, that is, in the sphere of interaction in which citizens transcend their own private concerns and reason from the standpoint of the common good.

Reason to Prefer: A flourishing society is the ultimate purpose of government

Hetan Shah and Nic Marks 2014 (Hetan Shah is the Chief Executive of the British Academy, the national academy for humanities and social sciences, and a Visiting Professor at King's College London. He served as Executive Director of the Royal Statistical Society from 2011 to 2019. Nic Marks is an independent policy adviser, speaker, statistician and author. He is a recognized expert in the field of well-being research and is the founder and leader of the award-winning Centre for Well-being at the New Economics Foundation, a London-based think tank) “A WELLBEING MANIFESTO FOR A FLOURISHING SOCIETY” <https://neweconomics.org/2014/09/wellbeing-manifesto-flourishing-society>

One of the key aims of a democratic government is to promote the good life: a flourishing society, where citizens are happy, healthy, capable and engaged – in other words with high levels of well-being.

CONTENTION 1: Prioritizing the right to know benefits society

The right to know has benefits for individuals and society

Thomas I. Emerson 1976 (Thomas Emerson was an attorney and professor of law at Yale University ) “Legal Foundations of the Right to Know” <https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=2625&context=law_lawreview>

Moreover, the right to know serves much the same function in our society as the right to communicate. It is essential to personal self- fulfillment. It is a significant method for seeking the truth, or at least for seeking the better answer. It is necessary for collective decision- making in a democratic society. And it is vital as a mechanism for effectuating social change without resort to violence or undue coercion.

Information is necessary for society to flourish

Shlomit Yanisky-Ravid and Ben Zion Lahav 2017 (Dr. Shlomit Yanisky-Ravid is a professor of Intellectual Property Law at Fordham University and a full time Senior Law Faculty Member at the Ono Academic College, Law School, the largest law school in Israel. Dr. Ben Zion Lahav is Constitutional Professor of Law at Ono Academic Law School) “PUBLIC INTEREST VS. PRIVATE LIVES—AFFORDING PUBLIC FIGURES PRIVACY IN THE DIGITAL ERA: THE THREE PRINCIPLE FILTERING MODEL” https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1633&context=jcl

Information is a survival tool. Access to knowledge and learning about the world is another justification for publishing information instead of using the right to privacy as an excuse to avoid publication. In almost every moment, people make judgments about their next action or decision based on the existing information that is available to them. The more a person knows about the world, the better his or her decisions will be. Information on websites can be critical to someone’s integration into society and even to one’s survival. This principle is distinguished from the first one (relevancy), although they may partially overlap. Whereas the relevancy principle focuses on the role of the public figure, this principle focuses on the public access to knowledge—including access to information that may lead to better health and education decisions, increased safety and efficiency, and overall improvement of individuals’ lives.

The benefits of information in the public’s interest justify exposing that information

Shlomit Yanisky-Ravid and Ben Zion Lahav 2017 (Dr. Shlomit Yanisky-Ravid is a professor of Intellectual Property Law at Fordham University and a full time Senior Law Faculty Member at the Ono Academic College, Law School, the largest law school in Israel. Dr. Ben Zion Lahav is Constitutional Professor of Law at Ono Academic Law School) “PUBLIC INTEREST VS. PRIVATE LIVES—AFFORDING PUBLIC FIGURES PRIVACY IN THE DIGITAL ERA: THE THREE PRINCIPLE FILTERING MODEL” https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1633&context=jcl

Whereas the relevancy principle focuses on the role of the public figure, this principle focuses on the public access to knowledge—including access to information that may lead to better health and education decisions, increased safety and efficiency, and overall improvement of individuals’ lives. The information itself, rather than the figure, is placed in the center. The attention public figures usually attract may justify this kind of publication. The Internet plays an important role when implementing this principle. Consequently, this factor, which can help us differentiate between information that falls under public interest and should be published rather than hidden behind the right to privacy, concerns access to necessary knowledge about the world. If the information teaches us important knowledge about “handling” life, it should be exposed to the public. How we determine whether certain private information provides us with tools to handle life’s challenges should, therefore, be included under the public interest justification. People who become the center of news will not only be exposed to the public as public figures, but publication of relevant private information about them would be justified. When information is designated to public records, publication is also justified.

Information is necessary for humans and society to function properly

Jeffrey J. Maciejewski and David T. Ozar 2005 (Jeffrey Maciejewski earned his M.A. and Ph.D. degrees from Marquette University, and he is Associate Professor at Creighton University in the Department of Computer Science, Design and Journalism. His research interests include media ethics, virtue ethics, human nature, and persuasion. David T. Ozar is a retired faculty at Loyola University, Chicago, IL, in the Department of Philosophy. His research interests include applied ethics, normative ethics, and social and political philosophy) “Natural Law and the Right to Know in a Democracy” DOI: 10.1207/s15327728jmme2002&3\_3

Second, information has been seen as being not only necessary to choose democratic officers and representatives and to evaluate their conduct in office, but also in order for human beings in association to function properly in the first place (Messner, 1949, p. 565). Therefore, a right to know (or, more accurately, a right to receive information) is consistent with a form of government derived from natural rights and liberties and related freedoms. Within the context of representative government, a right to receive in- formation, particularly concerning the functioning of government, was clearly deemed necessary to assure the liberty the framers sought.

CONTENTION 2: Prioritizing the right to privacy harms society

It is problematic if voters do not have the information they need

Robert Streiffer, Alan P. Rubel and Julie R. Fagan 2006 (Robert Streiffer is Professor of Philosophy and Bioethics at the University of Wisconsin, Madison; Alan Rubel is an associate professor in the Center for Law, Society & Justice at the University of Wisconsin, Madison; Julie Fagan is Clinical Associate Professor of Medicine at the University of Wisconsin Women's Health Center and serves on the hospital ethics committees for both the University of Wisconsin Hospital and Meriter Hospital) “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose” <https://doi.org/10.1080/03605310600860825>

On any plausible conception of democratic governance, citizens have the right to vote, and it is therefore morally problematic if voters do not have access to important facts about matters they vote on. For example, it would be problematic if citizens were unable to learn about candidates’ views on important policy matters before they choose between them. There are numerous democratic principles that underwrite the right to vote: that those who govern should do so with the consent of the governed; that the government should represent the people; and that the people should be able to hold the government accountable.

Negative Counter-Brief: Societal Good

There are two ways you can argue against this case. First, attack it on its own grounds and argue that privacy is also important for societal good, and that its benefits outweigh those of the right to know. Second, outweigh the value. Even if information might increase the common good, it still should be kept private for more important reasons like individual rights or human dignity. This counter-brief covers both angles, with a couple cards in each section to get you started.

Privacy promotes societal good

Protecting the right to privacy is not only constitutional, but also promotes important societal interests

Fred H. Cate, D. Annette Fields, and James K. McBain 1994 (Fred Cate is a professor of law at Indiana University School of Law-Bloomington and Senior Fellow at The Annenberg Washington Program in Communications Policy Studies. D. Annette Fields has a J.D. from Loyola University of Los Angeles and represent clients in connection with Freedom of Information Act claims before administrative agencies. James McBain has an LL.M. from Georgetown University Law Center and J.D. from Indiana University School of Law-Bloomington) “THE RIGHT TO PRIVACY AND THE PUBLIC'S RIGHT TO KNOW: The "Central Purpose" of the Freedom of Information Act” <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1740&context=facpub>

In order to achieve the Act's intended purpose, the "official information" test should be the touchstone for disclosure. After all, "the FOIA's central purpose is to ensure that the *Government's* activities be opened to the sharp eye of public scrutiny, not that information about *private* *citizens* that happens to be in the warehouse of the Government be so disclosed. Such a policy reflects not only the constitutionally protected right to privacy, but also protects important societal interests such as the effectiveness and efficiency of the judicial system; law enforcement and administrative regulations; the timely disclosure of appropriate information under the FOIA; and, the efficient and cost-effective operation of the government [emphasis in the original].

Privacy is a foundational human good

Shlomit Yanisky-Ravid and Ben Zion Lahav 2017 (Dr. Shlomit Yanisky-Ravid is a professor of Intellectual Property Law at Fordham University and a full time Senior Law Faculty Member at the Ono Academic College, Law School, the largest law school in Israel. Dr. Ben Zion Lahav is Constitutional Professor of Law at Ono Academic Law School in Israel.) “PUBLIC INTEREST VS. PRIVATE LIVES—AFFORDING PUBLIC FIGURES PRIVACY IN THE DIGITAL ERA: THE THREE PRINCIPLE FILTERING MODEL” <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1633&context=jcl>

Professor Anita Allen [the Henry R. Silverman Professor of Law and professor of philosophy at the University of Pennsylvania Law School] contends that privacy is a “foundational human good[ ],” one that is essential for a free and democratic society. She argues that in certain instances, privacy must be mandated: “[F]or the sake of foundational human goods, liberal societies properly constrain both government coercion and individual choice…”

Privacy is a public value as well as an individual value

Deborah G. Johnson, Priscilla M. Regan, and Kent Wayland 2011 (Deborah Johnson was Anne Shirley Carter Olsson Professor of Applied Ethics in the School of Engineering and Applied Science at University of Virginia; Priscilla Regan is a professor in the Department of Public and International Affairs at George Mason University; Kent Wayland is a research associate in the School of Engineering and Applied Science at University of Virginia) “Campaign Disclosure, Privacy and Transparency” <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1585&context=wmborj>

Privacy is an important but elusive concept that is arguably important in democratic government. Julie Cohen, for example, sees a strong connection between information privacy, which promotes individual autonomy and self-development, and vigorous public debate. Paul Schwartz also views information privacy as a conditional requirement for deliberative democracy. Priscilla Regan argues that privacy is not just an individual value but also a public value; it is important for democratic political systems in being essential for the exercise of a number of First Amendment rights, in establishing boundaries on the exercise of governmental power, and also in enabling the development of some commonality among individuals, which is necessary to unite a political community.

Societal good is outweighed by more important concerns

Violations of privacy are violations of human dignity

Elena Stojanovska, and Jovana Ananievska (Elena Stojanovska worked as an international cooperation and public relations advisor at the Directorate for Personal Data Protection from 2005 to 2014. She received her masters from the Institute for Sociological, Political and Juridical Research in Skopje. She has authored numerous professional papers on personal data protection in various fields, analyses and research pertaining to the implementation of the personal data protection regulation. Jovana Ananievska graduated from the Erasmus Mundus Master’s Programme in the field of International and European Law at the Louis Pasteur Faculty of Law at the University of Rouen, France, and the Faculty of Law at the Catholic University of Portugal in Lisbon. From 2012 to 2014 she worked as a coordinator and legal advisor at the LGBTI Support Centre, a subsidiary of the Helsinki Committee for Human Rights) “PRIVACY, INFORMATION AND PUBLIC INTEREST: THE RIGHT TO PRIVACY VERSUS THE PUBLIC’S RIGHT TO KNOW” <https://iapp.org/media/pdf/resource_center/Privacy-and-Public-Interest.pdf>

When it comes to privacy and human dignity, Warren and Brandeis start from defining the value—the inviolate personality that is the essence of human beings, which entails individual dignity and integrity, personal autonomy and independence. The respect of these values is the foundation on which the concept of privacy is built. Violating a person’s privacy by disclosing personal data or confidential information on them, by video surveillance, or gathering sensitive personal information, is not merely an invasion of the right to privacy, but also an offence to human dignity.

Privacy is an integral concept for democracy

Deborah G. Johnson, Priscilla M. Regan, and Kent Wayland 2011 (Deborah Johnson was Anne Shirley Carter Olsson Professor of Applied Ethics in the School of Engineering and Applied Science at University of Virginia; Priscilla Regan is a professor in the Department of Public and International Affairs at George Mason University; Kent Wayland is a research associate in the School of Engineering and Applied Science at University of Virginia) “Campaign Disclosure, Privacy and Transparency” <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1585&context=wmborj>

Privacy is an important but elusive concept that is arguably important in democratic government. Julie Cohen, for example, sees a strong connection between information privacy, which promotes individual autonomy and self-development, and vigorous public debate. Paul Schwartz also views information privacy as a conditional requirement for deliberative democracy. Priscilla Regan argues that privacy is not just an individual value but also a public value; it is important for democratic political systems in being essential for the exercise of a number of First Amendment rights, in establishing boundaries on the exercise of governmental power, and also in enabling the development of some commonality among individuals, which is necessary to unite a political community.

Works Cited

1. Alan Westin 1967 (Alan Westin was a Professor of Public Law & Government Emeritus at Columbia University, former publisher of Privacy & American Business, and former President of the Center for Social & Legal Research) “Privacy and Freedom”
2. Dictionary.com “Right-to-know” https://www.dictionary.com/browse/right-to-know
3. Will Kenton 2019 (Will Kenton received his Master of Arts in economics at The New School for Social Research and his Doctor of Philosophy in English literature at New York University. He has written about money and culture for over ten years, including developing Investopedia's Anxiety Index and its performance marketing content initiative, former managing editor of Kapitall Wire, editor-in-chief and lead contributor to Cultural Capitol) “Social Good” https://www.investopedia.com/terms/s/social\_good.asp
4. Waheed Hussain 2018 (Waheed Hussain is Associate Professor in the Department of Philosophy at the University of Toronto. His research interests lie mainly at the intersection of moral and political philosophy, economics and business. He did his undergraduate degree at Princeton University and his doctorate at Harvard University. A former fellow at the Safra Center for Ethics at the Kennedy School of Government, Professor Hussain was a Laurance S. Rockefeller Visiting Faculty Fellow at Princeton in 2013-14. His work has appeared in a variety of academic journals, including Philosophy & Public Affairs, Economics and Philosophy, Journal of Business Ethics, Business Ethics Quarterly, Social Theory and Practice and the Journal of Moral Philosophy. Before coming to Toronto, he was an assistant professor at The Wharton School of the University of Pennsylvania) “The Common Good” https://plato.stanford.edu/entries/common-good/#CommGoodPoliDemoCollDeciMaki
5. Hetan Shah and Nic Marks 2014 (Hetan Shah is the Chief Executive of the British Academy, the national academy for humanities and social sciences, and a Visiting Professor at King's College London. He served as Executive Director of the Royal Statistical Society from 2011 to 2019. Nic Marks is an independent policy adviser, speaker, statistician and author. He is a recognized expert in the field of well-being research and is the founder and leader of the award-winning Centre for Well-being at the New Economics Foundation, a London-based think tank) “A WELLBEING MANIFESTO FOR A FLOURISHING SOCIETY” https://neweconomics.org/2014/09/wellbeing-manifesto-flourishing-society
6. Thomas I. Emerson 1976 (Thomas Emerson was an attorney and professor of law at Yale University ) “Legal Foundations of the Right to Know” https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=2625&context=law\_lawreview
7. Shlomit Yanisky-Ravid and Ben Zion Lahav 2017 (Dr. Shlomit Yanisky-Ravid is a professor of Intellectual Property Law at Fordham University and a full time Senior Law Faculty Member at the Ono Academic College, Law School, the largest law school in Israel. Dr. Ben Zion Lahav is Constitutional Professor of Law at Ono Academic Law School) “PUBLIC INTEREST VS. PRIVATE LIVES—AFFORDING PUBLIC FIGURES PRIVACY IN THE DIGITAL ERA: THE THREE PRINCIPLE FILTERING MODEL” https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1633&context=jcl
8. Jeffrey J. Maciejewski and David T. Ozar 2005 (Jeffrey Maciejewski earned his M.A. and Ph.D. degrees from Marquette University, and he is Associate Professor at Creighton University in the Department of Computer Science, Design and Journalism. His research interests include media ethics, virtue ethics, human nature, and persuasion. David T. Ozar is a retired faculty at Loyola University, Chicago, IL, in the Department of Philosophy. His research interests include applied ethics, normative ethics, and social and political philosophy) “Natural Law and the Right to Know in a Democracy” DOI: 10.1207/s15327728jmme2002&3\_3
9. Robert Streiffer, Alan P. Rubel and Julie R. Fagan 2006 (Robert Streiffer is Professor of Philosophy and Bioethics at the University of Wisconsin, Madison; Alan Rubel is an associate professor in the Center for Law, Society & Justice at the University of Wisconsin, Madison; Julie Fagan is Clinical Associate Professor of Medicine at the University of Wisconsin Women's Health Center and serves on the hospital ethics committees for both the University of Wisconsin Hospital and Meriter Hospital) “Medical Privacy and the Public's Right to Vote: What Presidential Candidates Should Disclose” https://doi.org/10.1080/03605310600860825
10. Fred H. Cate, D. Annette Fields, and James K. McBain 1994 (Fred Cate is a professor of law at Indiana University School of Law-Bloomington and Senior Fellow at The Annenberg Washington Program in Communications Policy Studies. D. Annette Fields has a J.D. from Loyola University of Los Angeles and represent clients in connection with Freedom of Information Act claims before administrative agencies. James McBain has an LL.M. from Georgetown University Law Center and J.D. from Indiana University School of Law-Bloomington) “THE RIGHT TO PRIVACY AND THE PUBLIC'S RIGHT TO KNOW: The "Central Purpose" of the Freedom of Information Act” https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1740&context=facpub
11. Deborah G. Johnson, Priscilla M. Regan, and Kent Wayland 2011 (Deborah Johnson was Anne Shirley Carter Olsson Professor of Applied Ethics in the School of Engineering and Applied Science at University of Virginia; Priscilla Regan is a professor in the Department of Public and International Affairs at George Mason University; Kent Wayland is a research associate in the School of Engineering and Applied Science at University of Virginia) “Campaign Disclosure, Privacy and Transparency” https://scholarship.law.wm.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1585&context=wmborj
12. Elena Stojanovska, and Jovana Ananievska (Elena Stojanovska worked as an international cooperation and public relations advisor at the Directorate for Personal Data Protection from 2005 to 2014. She received her masters from the Institute for Sociological, Political and Juridical Research in Skopje. She has authored numerous professional papers on personal data protection in various fields, analyses and research pertaining to the implementation of the personal data protection regulation. Jovana Ananievska graduated from the Erasmus Mundus Master’s Programme in the field of International and European Law at the Louis Pasteur Faculty of Law at the University of Rouen, France, and the Faculty of Law at the Catholic University of Portugal in Lisbon. From 2012 to 2014 she worked as a coordinator and legal advisor at the LGBTI Support Centre, a subsidiary of the Helsinki Committee for Human Rights) “PRIVACY, INFORMATION AND PUBLIC INTEREST: THE RIGHT TO PRIVACY VERSUS THE PUBLIC’S RIGHT TO KNOW” https://iapp.org/media/pdf/resource\_center/Privacy-and-Public-Interest.pdf