Negative: Human Dignity

By Kirstin Erickson

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

This negative case is exclusively based on morality. Unlike many other approaches which argue that one side is more pragmatic or beneficial than the other, this case rests solely on ethical considerations. It manages to do that through the value of human dignity, one of the most fundamental moral values. If you can prove that human dignity is of utmost importance and inviolable, then you can outweigh any pragmatic arguments from the affirmative. Privacy must always be valued higher, simply because it is necessary to respect human dignity.

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Negative: Human Dignity

G. K. Chesterton once gave us this warning: “When people begin to ignore human dignity, it will not be long before they begin to ignore human rights.” Because human dignity and human rights are of utmost importance, 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: Human Dignity

Definition

The Center for Bioethics & Human Dignity Research Staff 2006 (CBHD is a Christian bioethics research center at Trinity International University that explores the nexus of biomedicine, biotechnology, and our common humanity) “Human Dignity: The Fundamental Concept in Bioethics” <https://cbhd.org/content/human-dignity-fundamental-concept-bioethics>

The Center for Bioethics and Human Dignity is committed to human dignity not just as a bioethical concept but as the fundamental concept in bioethics. Our belief in the fundamental nature of human dignity comes from our view of what human dignity is, where human dignity comes from, and the implications that human dignity holds for bioethical issues.

Human dignity is the recognition that human beings are worthy of a particular level of esteem or respect simply because they are human beings. Human dignity is the way of expressing the value of human beings. This stands in sharp contrast to the way in which we express the value of things: price.

Human dignity does not arise out of some ability or combination of abilities (i.e., autonomy, rational thought, self-awareness, freedom). Instead, human dignity is an inherent aspect of being human, the result of being created in the image of God. The fact that each and every human being bears the image of God (imago Dei) means that each and every human being has equal, inestimable, and irreducible dignity. It is not bestowed and it cannot be taken away; rather, it is recognized.

Reason to Prefer: Foundation of human rights

Willy Moka-Mubelo 2016 (Dr. Willy Moka-Mubelo, Ph.D. is Associate Professor at Université Loyola du Congo, teaching social and political philosophy) “Human Rights and Human Dignity” <http://link-springer-com-443.webvpn.fjmu.edu.cn/chapter/10.1007%2F978-3-319-49496-8_4>

Human rights are intimately related to the notion of human dignity. Both notions are connected in such a way that one cannot be understood without the other. The importance of human rights and the requirement to respect everyone’s rights is based on the notion of human dignity. In that sense, human dignity is considered to be the foundation of human rights.

MPX: Human rights are necessary for a flourishing society

Human Rights Careers (HRC was founded in 2015 with the goal to support human rights university applicants, students, alumni, graduates and professionals in pursuing and developing their career in the highly competitive field of human rights) “What is Human Dignity? Common Definitions” <https://www.humanrightscareers.com/issues/definitions-what-is-human-dignity/>

Why is human dignity so important when it comes to human rights? Human dignity justifies human rights. When people are divided and given a value based on characteristics like class, gender, religion, and so on, it creates unequal societies where discrimination runs rampant. People assigned a higher value get preferential treatment. Anyone who doesn’t fit into the privileged category is abandoned or oppressed. We’ve seen what happens in places where human dignity isn’t seen as inherent and human rights aren’t universal. While the privileged few in these societies flourish, society as a whole suffers significantly. Inevitably, violence erupts. If a new group takes power and also fails to recognize human dignity, the cycle of destruction continues, only with different participants.

Recognizing human dignity and the universality of human rights isn’t just so individuals can be protected and respected. It’s for the good of the entire world. If everyone’s rights were respected and everyone got equal opportunities to thrive, the world would be a much happier, more peaceful place.

CONTENTION 1: Protecting privacy will protect human dignity

The protection of privacy is directly based on the protection of human dignity

Luciano Floridi 2016 (Luciano Floridi is Professor of Philosophy and Ethics of Information at the University of Oxford, where he is also the Director of the Digital Ethics Lab of the Oxford Internet Institute. Still in Oxford, he is Distinguished Research Fellow of the Uehiro Centre for Practical Ethics of the Faculty of Philosophy, and Research Associate and Fellow in Information Policy of the Department of Computer Science)“On Human Dignity as a Foundation for the Right to Privacy” <https://doi.org/10.1007/s13347-016-0220-8>

The protection of privacy should be based directly on the protection of human dignity, not indirectly, through other rights such as that to property or to freedom of expression. In other words, privacy should be grafted as a first-order branch to the trunk of human dignity, not to some of its branches, as if it were a second-order right.

Privacy is a human right and thus fundamental to human dignity

Toby Mendel 1999 (Head of Law Programme, ARTICLE 19) “The Right of the Public to Know and Freedom of Entertainment: Information Seen from the Consumer’s Angle” <https://www.article19.org/data/files/pdfs/publications/freedom-of-information-foi-vs.-privacy.pdf>

It is important to distinguish between privacy as a human right and privacy interests as the object of statutory protection. Human rights serve to protect interests which are fundamental to human dignity. They are enshrined in constitutions and in international law and their status is such that States may pass no laws or take any action in breach of their guarantees. The protection provided by ordinary laws is of a lesser order. Ordinary laws may provide, for example, for certain contractual or delictual rights. Criminal laws prohibit certain types of conduct, such as littering or drunk driving. These laws, however, are not constitutional in nature and have no overriding status. Privacy is clearly protected as a human right, under many constitutions and also by Article 8 of the ECHR.

Privacy is intricately linked with dignity

Michael McFarland, S.J. 2012 (Michael McFarland is a computer scientist with extensive liberal arts teaching experience and a special interest in the intersection of technology and ethics. He served as the 31st president of the College of the Holy Cross) “Why We Care about Privacy” <https://www.scu.edu/ethics/focus-areas/internet-ethics/resources/why-we-care-about-privacy/>

Reverence for the human person as an end in itself and as an autonomous being requires respect for personal privacy. To lose control of one's personal information is in some measure to lose control of one's life and one's dignity.

Private information is an aspect of human autonomy and dignity

Michael G. Doherty 2007 (Principal Lecturer at the University of Central Lancashire, United Kingdom) “POLITICIANS AS A SPECIES OF ‘PUBLIC FIGURE’ AND THE RIGHT TO PRIVACY” <http://www.sbc.org.pl/Content/11963/doherty.pdf>

‘What human rights law has done is to identify private information as something worth protecting as an aspect of human autonomy and dignity’, (per Lord Hoffman, Campbell: para 50).

Because privacy is a human right, it applies to public figures

Michael G. Doherty 2007 (Principal Lecturer at the University of Central Lancashire, United Kingdom) “POLITICIANS AS A SPECIES OF ‘PUBLIC FIGURE’ AND THE RIGHT TO PRIVACY” <http://www.sbc.org.pl/Content/11963/doherty.pdf>

Public figures have a right to privacy. Any notion that a human right does not generally apply to a group of human beings would be a striking proposition. In addition, there is nothing in the core values protected by Article 8 (the development of the personality and informational autonomy), to suggest that they do apply to public figures.

The leading cases in both the European Court of Human Rights, (von Hannover), and English law, (Campbell v MGN Ltd [2004] 2 AC 457), stressed the fundamental importance of privacy for the development of personality of every human. According to von Hannover (para. 69) ‘anyone, even if they are known to the general public, must be able to enjoy a “legitimate expectation” of protection of and respect for their private life’ (see also Craxi v Italy (No.2) [2003] ECHR 24337/94, para. 65, ‘Public figures are entitled to the enjoyment of the guarantees set out in Article 8 of the Convention on the same basis as every other person’). In Campbell (per Lord Nicholls, para. 12) it was said that ‘A proper degree of privacy is essential for the well being and development of an individual’, and that ‘even a public figure would ordinarily be entitled to privacy’ (per Lord Hoffman, para. 36; see also A v B plc [2003] QB 195 (per Lord Woolf, para. 11(xi)), that ‘A public figure is entitled to a private life’).

CONTENTION 2: Violating privacy is a violation of human dignity

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.

Invasion of privacy is detrimental to dignity

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>

Among other risks and harms caused by an invasion of someone’s privacy is the detriment to personality traits like autonomy, freedom, dignity, and mental health. People whose privacy has been invaded and who have had personal information used against them have often experienced mental injury and helplessness.

The right to information in a democracy should not violate the right to privacy and 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>

The fundamental features of democracy— the right to information, the freedom to communicate and the need for transparency—as crucial as they may be to the existence of an informed and quality debate on public policy affecting the citizens, should not eliminate the need for privacy, the right to develop one’s own person, the right to develop one’s own sphere of privacy and the right to the respect of one’s dignity.

Affirmative Counter-Brief: Human Dignity

The negative case, with its value of human dignity, can outweigh any pragmatic arguments you might want to throw at it. So, you’ll need to attack it on its own moral grounds. This affirmative counter-brief does this in two different ways. The first is by breaking down the link between privacy and human dignity. While human dignity is absolute and inviolable, privacy is not. Especially for public figures, privacy rights are limited and partially surrendered, just through the nature of the office. The second tactic is arguing that the right to know is just as important and foundational for human dignity as the right to privacy. The negative speaker will get laser-focused on the right to privacy, but don’t let the judge forget about the many other human rights that exist. If you can show that the right to privacy is just one of many rights, that must sometimes be limited for the citizens’ right to know, then you can shift the debate back to your side.

Privacy rights are not absolute

Privacy rights are limited for public figures

The Reporters Committee for Freedom of the Press (The Reporters Committee provides pro bono legal representation, amicus curiae support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists. The Reporters Committee serves news organizations, reporters, editors, documentary filmmakers, media lawyers, and many more through online resources) “Public figures, private records” <https://www.rcfp.org/journals/news-media-and-law-summer-2012/public-figures-private-reco/>

“No one has to be a public figure,” said Melanie Sloan, executive director of Citizens for Responsibility and Ethics in Washington (CREW), an organization that advocates for greater government accountability. “You give up a certain amount of privacy to be one.”

[later in the article]

In an interview, she said that overall, people running for public office do not enjoy the same legal protections on their personal lives as do private citizens.

Privacy rights are not absolute

Michael G. Doherty 2007 (Principal Lecturer at the University of Central Lancashire, United Kingdom) “POLITICIANS AS A SPECIES OF ‘PUBLIC FIGURE’ AND THE RIGHT TO PRIVACY” <http://www.sbc.org.pl/Content/11963/doherty.pdf>

Article 8(2) ECHR though establishes that the privacy right is not absolute; ‘There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of... the protection of the rights and freedoms of others’.

The right to know is important for human rights, human dignity, and ethics

The right to know is essential to personal self-fulfillment and societal wellbeing

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.

The right to know is one of the most fundamental human rights and must be absolutely protected

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>

With respect to such situations it is possible, I believe, to lay down a firm and simple rule: The right to know should be fully, or absolutely if you prefer, protected. Other first amendment doctrines, including the incitement, clear-and-present-danger, and balancing tests, seem clearly unacceptable. The reasons for adopting this strict principle are similar to those which afford absolute protection to freedom of belief. The right to read, listen, or see is so elemental, so close to the source of all freedom, that one can hardly conceive of a system of free expression that does not extend it full protection. Moreover, any danger to the social order at this point is so inchoate and so unascertainable that it cannot be given substance or taken into account. On the other hand, the injury to the system of free expression from restricting such conduct is so gross that only a totalitarian system could contemplate it.

An ethical government is transparent and accountable

The Reporters Committee for Freedom of the Press (The Reporters Committee provides pro bono legal representation, amicus curiae support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists. The Reporters Committee serves news organizations, reporters, editors, documentary filmmakers, media lawyers, and many more through online resources) “Public figures, private records” <https://www.rcfp.org/journals/news-media-and-law-summer-2012/public-figures-private-reco/>

While they do not have to release their income tax return information, presidential candidates are obligated to file public financial disclosure records. These releases are monitored by the U.S. Office of Government Ethics, an independent regulatory agency that exists to prevent conflicts of interest in the executive branch and maintain public confidence in the integrity of government decision-making, according to its website.

“The opportunities presented by government service come with responsibilities,” states the introduction to the online version of the ethics agency’s “Nominee and New Entrant” form that various political appointees from the executive, legislative and judicial branches must fill out. It requires filers to report assets and incomes for themselves, their spouses and their dependent children. “Transparency is a critical part of government ethics, and Congress has determined that the citizens should know their leaders’ financial interests,” according to the form.

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