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Shifting Boundaries of Public and Private Life

John B. Thompson

Abstract
High-profile political scandals are symptomatic of a profound transformation of the relations between public and private life that has accompanied and helped to shape the development of modern societies. While the distinction between public and private life is not unique to modern societies, the emergence of new media of communication, from print to radio, television and the internet, has altered the very nature of the public, the private and the relations between them. Both the public and the private have been reconstituted as spheres of information and symbolic content that are largely detached from physical locales and increasingly interwoven with evolving technologies of communication, creating a very fluid situation in which the boundaries between public and private are blurred, porous, contestable and subject to constant negotiation and struggle. The shifting boundaries between public and private life have become a new battleground in modern societies, a contested terrain where individuals and organizations wage a new kind of information war, a terrain where established relations of power can be challenged and disrupted, lives damaged and reputations sometimes lost.

Key words
communication media ■ power ■ private ■ public ■ scandal ■ visibility

IN MAY 2009 a British newspaper, the Daily Telegraph, began publishing information about the expenses claimed by Members of Parliament (MPs). The newspaper had acquired a disc containing data on MPs’ expenses from an unknown source, and in early May they began publishing selected fragments that were released into the public domain in a slow, drip-drip process that went on for several weeks. The revelations were explosive. They became front-page headlines in all the national newspapers and the lead stories in the radio and television news programmes. It quickly mushroomed into a major political scandal, eliciting expressions of public outrage at a level rarely seen in the normally rather becalmed arenas of mediated public debate in Britain. There was much embarrassment as the details of MPs’
expenses, from the trivial to the outrageous, were splashed across the front pages of the newspapers, and many high-profile political figures, starting with the Speaker of the House Michael Martin, were either forced to resign or decided to step down at the next general election.

How did this come about? Why did the disclosure of MPs’ expenses give rise to such outrage, even though in many cases no laws were broken and some of the expenses claimed were very trivial in financial terms? The great MPs’ expenses scandal, which dominated headlines in Britain for a good part of late spring and early summer 2009 and precipitated a great deal of soul-searching among British political elites, was a classic example of a modern political scandal. It displayed all of the key characteristics—the sudden disclosure into the public domain of actions or information previously thought by the parties concerned to be private; a widespread belief that the actions involved an element of transgression or impropriety; condemnation of the actions in the media and elsewhere; reputations damaged, careers foreshortened, trust undermined. And yet there was also something different about this scandal, stemming in part from the sheer number of individuals implicated in it. We shall return to this point later on, but I want first to reflect on why it is that phenomena such as this, where information previously regarded as private suddenly erupts into the public domain, have become such common features of public life today.

The Public and the Private
The rise of political scandal is symptomatic of a profound transformation of the relations between public and private life that has accompanied and helped to shape the development of modern societies. Of course, the distinction between the public and the private is not unique to modern societies, nor is the theoretical reflection on this distinction a preoccupation of modern thought alone. Half a century ago Hannah Arendt reminded us that the distinction between the public and the private was a fundamental feature of Ancient Greek thought (Arendt, 1958), and the distinction itself—once described by Norberto Bobbio as ‘The Great Dichotomy’ (Bobbio, 1989)—has been much discussed in the recent literature of social and political theory (see, for example, Benn and Gaus, 1983; Passerin d’Entrèves and Vogel, 2000; Weintraub and Kumar, 1997). It has also been much criticized—by feminist scholars among others, who have shown that the public–private distinction often overlapped in the writings of philosophers and political theorists with the distinction between men and women and often served, explicitly or implicitly, to perpetuate deeply engrained assumptions about gender, to exclude asymmetrical relations of power from scrutiny and to make it more difficult for women to achieve full and equal participation in public life (see, for example, Pateman, 1983). There are some who, in the light of such criticisms, may be inclined to discard the distinction altogether, doubtful of whether it could ever be purged of the objectionable assumptions with which it was interwoven throughout much of its history. That is not my
view, however. I shall argue that this distinction retains its importance for us today. The concepts of the public and the private are an inextricable part of the language we use as social and political actors – they are part of the conceptual architecture through which we live our lives as social and political beings. Moreover, these concepts, suitably rethought, can provide valuable analytical tools for making sense of phenomena – such as scandals – that have become pervasive features of contemporary social life.

While the public–private distinction has been extensively discussed in the literature, there is something unsatisfactory about the way that much of this discussion has taken place. For the most part, the distinction has been addressed from the viewpoint of normative political theory – that is, political theorists have scrutinized the texts of other political theorists with a view to elucidating their usage of these terms, seeking to bring out the insights (as well as, in some cases, the blind spots) of their thinking, usually with the aim of trying to shed light on the conditions under which human beings could achieve a more fulfilling form of political life (however that might be defined). This is, of course, a perfectly legitimate undertaking, but in practice it has meant that two equally important considerations have not received the attention they deserve. In the first place, the ‘public’ side of the public–private distinction has tended to receive a good deal more attention than the ‘private’ side; to the extent that the private has been addressed, it has all too often been seen as a foil to the public realm or as a domain of concealed power relations to be unveiled and criticized rather than as a sphere of social life that deserves to be analysed in its own right and, in a suitably conceptualized form, nurtured and defended. Second, the framing of the issues in terms of normative political theory has tended to occlude a deeper understanding of how the public and the private (and the relations between them) have been transformed by the development of modern societies, and in particular how they have been transformed, and continue to be transformed, by the rise and ongoing proliferation of multiple forms of mediated communication. No attempt to understand the changing nature of public and private life could be undertaken today without rooting this analysis in a systematic reflection on the rise of communication media and their impact.

We can make these critical comments more concrete by considering for a moment the influential writings of Arendt and Habermas. Arendt’s account of the public and the private in Ancient Greek thought is in many ways the locus classicus for contemporary discussions of this topic. For the Ancient Greeks, observed Arendt, the human capacity for political organization was different from, and in opposition to, the kind of natural association that was centred in the family and the home. The emergence of the city-state enabled individuals to have a second life, a bios politikos, political life, that was separate from the private life in the family and the home, oikos. The distinctive feature of the private realm, as Arendt saw it, is that this was the sphere where human beings lived together because they were driven by their wants and needs. It was the realm of life itself – of providing nourishment, giving birth, producing and reproducing human life. The household was therefore
born of necessity. It was characterized by the kind of activity that Arendt called labour and work, which are the kinds of activities through which human beings produce the goods through which life assures its own survival.

This was all very different from the public realm. The public realm, the realm of the polis, was the realm of freedom. For the Ancient Greeks, freedom was located only in the political realm, the polis. Necessity was a pre-political phenomenon characteristic of the private household, and force and violence could be justified in this sphere, at least in the eyes of the Ancient Greeks, because they were the means to overcome necessity in order to achieve the kind of freedom that was only possible in the public realm. Whereas the private realm was characterized by labour and work, the public realm was characterized by action and speech. To be political, to live in the polis, meant that everything was decided through words and persuasion, not through force and violence. The public realm was a space of appearance in which things that were said and done could be seen and heard by others. The fact that they are seen and heard by others gives them a kind of reality that they wouldn't have otherwise, a reality that consists in the fact that these actions and utterances are witnessed by a plurality of others. The public realm was also the world in which human beings could excel, could surpass themselves through acts of honour and courage, could transcend the mortality of ordinary individuals, leave a trace in history and thereby achieve a certain kind of immortality that transcends the natural ruin of time.

While Arendt gave a largely sympathetic account of the distinction between public and private in Ancient Greek thought, glossing over the obvious objections one could raise in terms of who was entitled to participate in the life of the polis and the price that was paid for this in terms of the oppressive forms of power that prevailed in the private realm, it is her account of the subsequent eclipse of this distinction, brought about by what she called ‘the rise of the social’, that I want to focus on here. What Arendt meant by the rise of the social is that many of the activities that were once carried out in the confines of the household and the family were, from the 17th and 18th centuries on, increasingly done outside the household by social groups and classes. The sphere of work expanded beyond the household and began to occupy more and more of the social space, creating a society of workers and jobholders, of organized classes and parties pursuing collective interests. The rise of the social did not allow any space for the kind of action and speech that the Ancient Greeks had seen as constitutive of the public realm. So action and speech became increasingly marginalized, and what the Greeks understood by the public realm gradually disappeared. If anything remains of action and speech today, it can only be found, Arendt suggested, among isolated groups of scientists and artists, who have to some extent resisted the kind of conformism and acquiescence that have come to prevail in what Arendt called the society of jobholders.

I am not going to retrace Arendt’s account of the rise of the social in more detail here – the ambiguities and shortcomings have been examined very well by others (see, for example, Benhabib, 1996: 22ff). I want instead
to restrict my focus to the changing relation between the public and the private in early modern Europe and ask one question of Arendt’s account: why did she give no consideration to the potential impact of the rise of communication media? In some ways it is curious that she should ignore them – after all, she emphasized the importance of language and speech as constitutive features of the polis in Ancient Greek thought. So why didn’t she consider the possibility that the language and speech that constituted the public realm might be affected in some significant way by the new media of print that were emerging in the early modern period? The answer to this question is unclear, but in all likelihood Arendt – like so many social and political thinkers – was simply blind to the possibility that the rise of communication media might have transformed in some fundamental way the very nature of the realm that was so central to her thought.

It is one of the great achievements of Habermas’s early work on the public sphere that it focused sharply on this possibility and explored its potential implications. The Structural Transformation of the Public Sphere dealt with issues that were very similar to those that preoccupied Arendt – indeed, Habermas was familiar with Arendt’s work at that time and explicitly referred to her argument about the rise of the social (Habermas, 1989: 19). But Habermas’s account of the metamorphosis of the distinction between the public and the private in early modern Europe was very different from Arendt’s. Like Arendt, Habermas saw that, with the rise of capitalism, the activities of production and reproduction increasingly broke out of the traditional confines of the family and the household. But unlike Arendt, Habermas also saw that the expanding capitalist economy involved not just the growing trade in goods: it also involved, from the 16th and 17th centuries on, a growing trade in information that was precipitated by the rise of newspapers and the periodical press. This emerging ‘bourgeois public sphere’ came into existence in so far as these new organs of information were not part of the state but were structurally separate from it and were based on the activities of individuals pursuing their own entrepreneurial activities in civil society. So this new kind of public sphere was, in a sense, a space in between – it was in between the state, on the one hand, and the private realm of the household and the family, on the other. It consisted of private individuals who came together to debate among themselves and with state authorities concerning the key issues of the day. It was a sphere of language and speech, of argument and confrontation, a sphere in which individuals could express their views, challenge the views of others and contest the exercise of power by the state. It was, as Habermas put it, the public use of reason by individuals engaged in open argument and debate.

But while the bourgeois public sphere played an important role in early modern Europe, it was gradually undermined, Habermas argued, by the subsequent development of modern societies. Partly this was because the coffee house culture of 18th-century Europe gradually declined in significance. But the newspapers and periodical press also changed: they became part of large-scale commercial organizations that were oriented
more towards entertainment and profit than towards stimulating rational, critical debate among citizens. Moreover, new techniques of ‘opinion management’ were developed and used to try to control and direct public opinion. In the course of the 20th century the public sphere increasingly took on a staged and theatrical character, like the showy razzmatazz of American party conventions and presidential campaigns. Habermas described this as the ‘refeudalization of the public sphere’: what he meant is that politics was turned into a kind of theatre, a managed show in which every attempt is made to endow leaders with the kind of aura and prestige that was once bestowed on lords and princes in the feudal courts of the Middle Ages.

Habermas gave us a very powerful argument about the transformation of the public sphere in early modern Europe. What is particularly important is that he saw that the rise of the trade in information had a transformative impact on the very nature of the public realm, creating a new kind of public sphere that hadn’t existed before – something that Arendt simply hadn’t seen. While his argument has been subjected to intensive scrutiny from a variety of perspectives, I want to focus on just one issue that is particularly important for the theme we are pursuing here.

While Habermas called attention to a key development overlooked by Arendt, the value of Habermas’s insight is compromised by something he shared in common with her – at least this is true of the argument in The Structural Transformation of the Public Sphere. Like Arendt, Habermas was deeply influenced by the Classical Greek idea of the virtues of dialogue and debate among equals who gather together to discuss issues of common concern. Of course, Habermas attributed an important role to print and the periodical press in accounting for the rise of the bourgeois public sphere. But Habermas was not interested in print as such, in the distinctive characteristics of this medium of communication and the way it was transforming social relations – there is no systematic theory of communication media here, no attempt to understand how the medium of print was changing the very nature of the public. On the contrary, Habermas’s way of thinking about print was shaped by a model of communication based on the spoken word: the periodical press was part of a conversation that was carried out in the shared locales of bourgeois sociability. The press was interwoven with, and inseparable from, the conversations that took place in the clubs and coffee houses of early modern Europe. So while the press played a crucial role in the formation of the bourgeois public sphere, this sphere was conceptualized by Habermas, not in relation to print, but in relation to the conversations that were stimulated by it. In this respect, Habermas’s account of the bourgeois public sphere bears the unmistakable imprint of the Classical Greek conception of public life: the salons, clubs and coffee houses of Paris and London were the equivalent, in early modern Europe, of the assemblies and marketplaces of Ancient Greece.

If we see this, then it helps us to understand why Habermas was inclined to interpret the impact of the newer electronic media like radio
and television in largely negative terms (he was writing in the late 1950s, when TV had just been introduced as a mass medium). It was not simply because the media industries had become more commercialized and had become ‘culture industries’ in the sense that Horkheimer and Adorno used this term. It was also because the kind of communicative situation created by these new electronic media, in which the reception of media messages was a form of privatized appropriation, was a far cry from the dialogical exchange between individuals who gathered together to discuss the key issues of the day. As Habermas says, writing about radio and television, ‘today the conversation itself is administered’ (1989: 164). Critical debate among citizens is replaced by a staged debate in a studio that is carried out in their name.

However, if we remain wedded to this Classical conception of the public sphere as debate among individuals who encounter one another as equals in dialogue, then we will never understand the nature of this new kind of public sphere that was brought into being by media like print. We will always be harking back to an old model, and we will always be inclined to interpret the ever-growing role of mediated communication as a kind of historical fall from grace. While Habermas’s account went significantly beyond Arendt’s in highlighting the importance of print media in transforming the nature of the public sphere in early modern Europe, his account, like Arendt’s, remained wedded to the Classical conception of the public sphere, and both authors, tied as they were to this Classical conception, could not but interpret the rise of modern societies, with their growing divisions of labour, the triumph of work as a kind of mindless labouring and the proliferation of media in which conversation is carried out by proxy, as a lamentable story of decline. But the inevitability of this story of decline is an outcome of the theoretical attachment, shared by Arendt and Habermas, to the Classical conception of the public sphere, an attachment that runs the risk of blinding us to the new forms of publicness that are being created by the development of communication media among other things and prejudging our assessment of them. In my view, we need to put aside this Classical model of the public sphere, see it as one possible model among others, and look with fresh eyes at the question of how the rise of print and other media has transformed and, indeed, reconstituted the public sphere.

The Rise of Mediated Visibility

How might we do this? Hannah Arendt gives us a clue. She notes that in Ancient Greek thought, the public realm is a space of appearance in which things that were said and done could be seen and heard by others as well as by ourselves (1958: 50ff). That is, they were visible to others. And the fact that they were visible to others gave them a kind of reality that they wouldn’t have otherwise, a reality that consisted in the fact that these actions and utterances were witnessed by a plurality of others.
While Arendt offers us this tantalizing observation, she doesn’t develop it in any detail, nor does she make the connection with mediated forms of communication. So let’s take Arendt’s observation as our starting point and ask: what is it to be visible?

The visible is that which can be seen, that which is perceptible by the sense of sight; we can contrast this with the invisible as that which cannot be seen, is imperceptible or hidden from view (see Thompson, 2005). In the normal flow of our daily lives, visibility is linked to the physical capacities of our sense of sight and to the spatial and temporal properties of the circumstances in which we find ourselves: we cannot see beyond a certain distance, unless aided by a technical device of some kind; we cannot see in the absence of a certain amount of light, unless aided, again, by a technical device; and we cannot see into the future or the past. What we see is that which lies within our field of vision, where the boundaries of this field are shaped by the spatial and temporal properties of the here and now. Ordinary visibility is always situated: the others who are visible to us are those who share the same spatial-temporal locale. Visibility is also reciprocal (at least in principle): we can see others who are within our field of vision, but they can also see us (provided that we are not concealed in some way). We could describe this as the situated visibility of co-presence.

But with the development of communication media, beginning with print in early modern Europe and continuing with the electronic media in the 19th, 20th and 21st centuries, visibility is freed from the spatial and temporal properties of the here and now. The visibility of individuals, actions and events is severed from the sharing of a common locale – this is what we could call mediated visibility. One no longer has to be present in the same spatial-temporal setting in order to see the other individual or to witness the action or event. The field of vision is stretched out in space and possibly also in time: one can witness events occurring in distant places ‘live’, as they occur in real time; one can also witness distant events which occurred in the past and which can be re-presented in the present. Moreover, this new form of mediated visibility is no longer reciprocal in character. The field of vision is uni-directional: the viewer can see the distant others who are being filmed or photographed or represented in some way but the distant others cannot, in most cases, see them.

So the development of communication media brought into being a new form of visibility – or, to be more precise, new forms of visibility whose specific properties are shaped by specific media of communication. What we think of as the public sphere today is essentially and unavoidably constituted by these new forms of mediated visibility – it is, in other words, a mediated publicness. This is not to say that this is the only form of publicness that exists today. We still have the situated publicness of co-presence: we still gather together to discuss issues of common concern, as we do, for example, in town halls, faculty meetings or in parliamentary fora like the House of Commons. But this kind of publicness of co-presence is
complemented by, and now inseparably interwoven with, the mediated publicness that has been brought into being by communication media.

In these new forms of mediated publicness, the field of vision is no longer constrained by the spatial and temporal properties of the here and now but is shaped, instead, by the distinctive properties of communication media, by a range of social and technical considerations, such as camera angles, editing processes and organizational interests and priorities, and by the new types of interaction which these media make possible. It is also shaped by the fact that in most communication media, the visual is not an isolated sensory dimension but is usually accompanied by the spoken or written word — it is the audio-visual or the textual-visual. Seeing is never ‘pure vision’: it is always shaped by a broader set of cultural assumptions and frameworks and by the spoken or written cues that commonly accompany the visual image and shape the way it is seen and understood.

We can bring out the significance of this new form of visibility by focusing briefly on one area where its implications were particularly profound — the complex and changing relations between visibility and political power. Prior to the development of print and other media, the visibility of political rulers depended to a large extent on their physical appearance before others in contexts of co-presence. For the most part, these appearances could be restricted to the relatively closed circles of the assembly or the court: beyond these circles, rulers were rarely if ever seen. But with the development of print and other media, political rulers increasingly acquired a kind of visibility that was detached from their physical appearance before assembled audiences. Gradually they became visible to an extended audience of individuals with whom they did not interact face to face and who, prior to the development of the media, had simply never seen their rulers before.

The development of electronic media — radio, television and the new media associated with the internet — represented in some ways the continuation of a process that had been set in motion by print, but it also represented a new departure. Electronic media enabled information and symbolic content to be transmitted over large distances with little or no delay. Hence they created a kind of ‘despatialized simultaneity’: distant others could be rendered visible in virtually the same time frame, could be heard at the very moment they spoke and seen at the very moment they acted, even though they didn’t share the same spatial locale as the individuals to whom they were visible. Moreover, the electronic media were characterized by a richness of symbolic cues which enabled some of the features of face-to-face interaction to be reproduced in these new media — mediated audibility in the case of radio, and both oral and visual cues in the case of television and the internet. The stage was set for the flourishing of a new kind of intimacy in the public sphere — what I have called ‘non-reciprocal intimacy at a distance’ (Thompson, 1995: ch. 7). Now political leaders could address their subjects as if they were family or friends. And given the capacity of television to convey close-up images, individuals could
scrutinize their leaders’ actions and utterances with the kind of close attention once reserved for those with whom one shared an intimate personal relationship.

The development of communication media thus gave rise to a new kind of despatialized visibility which allowed for an intimate form of self-presentation freed from the constraints of co-presence. The impersonal aloofness of most political leaders in the past was increasingly replaced by this new kind of mediated intimacy through which politicians could present themselves not just as leaders but as ordinary human beings who could address their subjects as fellow citizens, selectively disclosing aspects of their lives and their character in a conversational or even confessional mode. But while communication media created new opportunities for political leaders to appear before others in a way and on a scale that never existed before, they also created new risks – we shall return to this point below.

The Transformation of Privacy

We have been focusing our attention on the ways in which the public realm was transformed with the development of modern societies, but what about the private realm? How was this affected by the institutional changes that shaped the development of modern societies from roughly the 16th century on?

Let us return once again to Arendt. In Ancient Greek thought, according to Arendt, the private sphere was understood in the original sense of ‘privation’, of ‘being deprived’: it was to be deprived of the things that make for a truly human life, to be deprived of the reality that comes from being seen and heard by others, to be deprived of the relationships that come from the sharing of a world in common, and to be deprived of the possibility of achieving something more enduring than life itself (1958: 58ff). So in Ancient Greek thought, the private realm was to all intents and purposes secondary to the public realm: it was the public realm that really mattered for the Ancient Greeks, and the private realm was important only because it provided the conditions necessary for individuals to survive and hence to participate in the public realm.

The Ancient Greek way of thinking about the private has cast something of a shadow over the way we think about the private in Western thought. The Ancient Greeks tended to think of the private realm primarily in terms of lack – the lack of those features that make for a truly human life. But this is a very one-sided way of thinking about the private, and a one-sided way of thinking about what it is to live a truly human life. Even Arendt was aware that you cannot really give a satisfactory account of the private realm purely in terms of lack: there are, as she puts it, certain non-privative traits of privacy that this account doesn’t acknowledge. Above all, the private sphere provides individuals with a space where they can withdraw from the glare of public life and from being constantly seen and heard by others. ‘A life spent entirely in public, in the presence of others,’
says Arendt, ‘becomes, as we would say, shallow. While it 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’ (1958: 71). In the post-Classical history of Western thought, and especially in the tradition of liberal political thought in the 17th and 18th centuries, this insight tends to get theorized in terms of the defence of private property, because the protection of private property is seen as the only reliable way in which this private space can be secured.

I am not going to pursue the discussion of private property here, though it would play an important role in any serious attempt to understand the historically changing ways of thinking about the private in the West. I want instead to pick up another thread that is important for our understanding of the private and its value today. This other thread is also associated with the tradition of liberal political thought that flourished in the early modern period. One of the key ideas of liberalism was the idea that individuals had certain basic rights that needed to be protected from the abuse of power by despotic governments. The tradition of liberal democratic thought that stemmed from the writings of thinkers like Locke, Hume, Kant and John Stuart Mill is varied and complex and I shall not discuss it here, but I do want to dwell for a moment on this point about the relation between the individual and the state.

The liberal political thinkers were writing in a context that was very different from that of the ancient world. In early modern Europe, states were powerful institutions and were becoming more and more so; political and military power were being increasingly concentrated in the institutions of modern states. But most rulers were still hereditary – they were kings or queens who were endowed with power by virtue of the accident of birth. In this context, it was very radical to argue that individuals had certain basic rights that placed limits on the exercise of political power by the state, but this is exactly what the early political theorists like Locke maintained. One of the key ideas of early liberal political thought was the idea that individuals have certain basic rights or civil liberties, like the freedom of speech and the freedom of association, and that these rights are necessary to protect the individual from the excessive use of state power. So in the liberal tradition of political thought, there are limits to state power, and when the state exceeds these limits it becomes illegitimate. This idea that individuals have certain fundamental rights that the state must respect was subsequently built into the constitutional frameworks of most modern Western states, most notably in the American Bill of Rights.

This is relevant to the question of privacy in two ways. In the first place, it provides a crucial part of the social and political context in which questions of privacy arise for us today – at least for those who live in the West. That is, when we think about privacy today, we are not thinking of it only or even primarily in terms of Ancient Greek thought; rather, we are thinking of it in a context that has also been deeply shaped by the tradition
of liberal democratic political theory, which is concerned with, among other things, defining the limits of state power.

The second reason why it is relevant is that, for us today, we are inclined to think of privacy as a kind of right, something that we as individuals can legitimately claim as belonging to us. Indeed, with the development of modern societies through the 19th and 20th centuries, this is exactly how questions of privacy tended to be dealt with in law. In 1890, Samuel Warren and Louis Brandeis published a now-classic article in the Harvard Law Review called ‘The Right to Privacy’. They argued for the legal recognition of a right to privacy, which they famously defined as the ‘right to be let alone’ (1890: 193). Warren and Brandeis were concerned about the possible impact of technologies that were new at the time – and at that time, in the late 19th century, it was media like photography and the popular press, which was becoming increasingly sensationalist. They were concerned that these media could cause harm to individuals by overstepping the limits of decency and propriety. The law of defamation protected individuals against false statements that harm an individual’s reputation, but this is not the same as privacy. For Warren and Brandeis, privacy was the right to be let alone: the right for each individual to decide the extent to which ‘his thoughts, sentiments, and emotions shall be communicated to others’ (1890: 198). This article was hugely influential, at least in the United States, and it shaped the debate about privacy in the US throughout the 20th century. It was seen by many as a plausible elaboration of the Fourth Amendment of the US Constitution as enshrined in the Bill of Rights – namely: ‘The right of the people to be secure in their persons, houses, papers, and effects.’

However, as a way of conceptualizing privacy today, the account offered by Warren and Brandeis is hardly satisfactory. Among other things, it is simply too broad: by this definition, any form of offensive behaviour, or even a harmless inquiry like stopping someone in the street and asking them for directions, could be seen as an infringement of privacy (Allen, 1988). Most other attempts to conceptualize privacy in terms of intimacy, secrecy and personhood suffer from other, equally troubling, shortcomings. So how should we conceptualize privacy?

In my view, the most promising way of conceptualizing privacy is in terms of control. In its most fundamental sense, privacy has to do with the ability of individuals to exercise control over something. Usually this ‘something’ is understood as information: that is, privacy is the ability to control information about oneself, and to control how and to what extent that information is communicated to others. But this doesn’t have to be understood only in terms of information. For example, Rössler (2005) defines privacy as the ability to control access to ‘something’, where information is one form of ‘something’ but there are others. She distinguishes three dimensions of privacy: informational privacy, which is control over information about ourselves and the right to protect it from unwanted access by others; decisional privacy, which is control over our decisions and actions and the
right to protect this from unwanted interference by others; and spatial privacy, which is control over our own spaces and the right to protect them against the unwanted intrusion of others. So violations of privacy can be defined in each of these ways: as illicit acquisition and use of information about us; as illicit interference in our decisions and actions; and as illicit intrusion into our spaces, either through physical intrusion or through surveillance.

We could elaborate this conception of privacy as control by drawing on Goffman’s (1972) notion of ‘territories of the self’. We could say that there are certain territories of the self that are both spatial and informational in character. These territories constitute an arena which the individual typically regards as his or her own, such that when others intrude on these territories it is perceived by the individual as a transgression or violation. So let me propose a definition: we could say that the private consists of those territories of the self, which include the environment of the self and information about the self, over which the individual seeks to exercise control and to restrict access by others. Privacy rights are the rights that an individual has to exercise this control and to restrict others’ access. Some of these rights are recognized in law but many are not – the idea that there are territories of the self and that individuals have certain rights over these territories is much broader than the idea of legally recognized rights to privacy. The law might only recognize some privacy rights, and the extent to which privacy rights are recognized in law will vary from country to country. So we cannot necessarily take the law as our guide here: there may be some privacy rights that are not formally recognized in law.

Let me develop this account further by making three points. In the first place, it is important to see that what counts as ‘private’, and what counts as an invasion or violation of privacy, is going to vary from context to context – in other words, the private is highly contextual. This point is developed very effectively by Nissenbaum (2004, 2010), who puts forward an account of privacy in terms of what she calls ‘contextual integrity’. Her argument is that privacy always has to be analysed in relation to the different spheres or contexts in which individuals live out their lives. In each of these spheres or contexts there are specific norms that govern what is appropriate and acceptable in terms of how information is disclosed and shared. Nissenbaum distinguishes two kinds of norms here: what she calls norms of appropriateness, on the one hand, and norms of distribution or information flow, on the other. For example, when we go to see our doctor, it is appropriate to share details about our medical condition with our doctor but not vice versa – that is, we don’t expect our doctor to tell us about her medical condition. This is a norm of appropriateness which governs our actions – we know it, we take it for granted, and we act on the basis of it. But there is also a norm of distribution or information flow. So just to stick with the same example: we assume that what we tell our doctor is confidential, and we wouldn’t expect our doctor to pass on these details to others without our explicit consent. So if our medical records turn up on a
website where they are being offered for sale without our consent, then this norm of distribution or information flow has clearly been breached. But the norms that apply in one context don’t necessarily apply in another. For example, the norms of appropriateness and information flow that apply in the patient—doctor relation are not necessarily going to be the same as the norms that apply in relations between friends, or in relations between employees and employers. Different norms will apply in these different contexts, but there will be, nonetheless, norms of some kind. In every context there will be norms that govern appropriateness and information flow, and a privacy violation occurs when any of these norms is breached.

The second point has to do with the role of information and communication technologies. I characterized the territories of the self as both spatial and informational — in fact, information is more important here than spatial territories as such. Of course, space is not irrelevant: individuals do regard certain spaces as their own, like their homes or their gardens or their bedrooms. But it would be misleading to think of these territories as entirely or even primarily spatial in character — indeed, the notion of ‘territory’ might be a little misleading here, since it conjures up the image of physical space, whereas in fact much of this territory is purely informational or ‘virtual’ in character. Territories of the self are defined primarily in terms of agents and their ability to control access to what matters to them, and information about one’s personal life, or about one’s medical health, is just as much a part of one’s territory of the self as is the physical space of one’s home or bedroom. Moreover, the ability to control this information, or to gain access to it, is profoundly affected by the development of information and communication technologies. These can be technologies of surveillance which give others, including agents of the state but also others like journalists and paparazzi, the ability to intrude covertly in the lives of others. They also include technologies of communication which enable individuals to disclose information about themselves and others and share it with others in new ways that involve varying degrees of control. Individuals who share information in these contexts may think they have control over it but perhaps they don’t — they may have less control than they think.

So we must get away from the temptation to think of ‘the private sphere’ in terms of physical spaces like the home. Physical spaces are part of what makes up the private sphere but they are neither the only nor the decisive things, and they are less and less important as the constitutive features of the private sphere. This idea of the private sphere as a physical space like the home — an idea that was integral to the way that the Ancient Greeks thought about the private realm — is unsustainable in a world where information and communication technologies have transformed the ways that information is disseminated, accessed and controlled. Just as the development of communication media severed the notion of publicness from the sharing of a common locale, so too it has increasingly detached the notion of the private from a physical space like the home in which an individual dwells and to which an individual can withdraw to escape from
the glare of public life. Today, when an individual sits in the space of his or her home or bedroom and goes online, disclosing information about himself or herself to thousands or millions of others, in what sense is this individual situated in a private sphere? She may be in a private space in her home, but at the same time she is participating in a public arena of information dissemination. So we cannot think of the private exclusively or even primarily in terms of a physical space. The private now consists more and more of a despatialized realm of information and symbolic content over which the individual believes he or she can and should be able to exercise control, regardless of where this individual and this information might be physically located.

This brings me to the third point: the fact that individuals believe that they can and should be able to exercise control over information about themselves does not necessarily mean that they always have the right to do so, or that any right to privacy they have will always trump other considerations. On the contrary, the right to privacy is but one right, and in particular cases it may well be over-ridden by other factors that weigh more heavily in a normative deliberation on the relative merits of conflicting rights and claims.

**Shifting Boundaries Between Public and Private Life**

If the analysis I’ve developed here is sound, then what we might think of as ‘the public sphere’ today has become a complex space of information flows where ‘being public’ means ‘being visible’ in this space, being capable of being seen and heard by others. It is, to use Arendt’s evocative phrase, a ‘space of appearance’, where the mere fact of appearing endows words and actions with a kind of reality they did not have before, precisely because they are now seen and heard by others. But unlike the Classical Greek notion of the public realm, this space of appearance has no spatial characteristics – it is, in effect, a ‘despatialized’ space, precisely because it is constituted by mediated forms of communication that are despatialized and often non-dialogical in character. It is also a largely uncontrollable space, in the sense that once words and actions appear in this space it is very difficult to control what happens to them. Part of the reality they acquire is that they become a permanent record, a permanent trace, that can be circulated indefinitely in the space of information flows and reproduced in many different media and contexts. Once words and actions become public in this space, they are public forever – ‘immortal’, but in a sense quite different from the kind of immortality of which Arendt was thinking when she wrote of the Ancient Greeks and the significance they attached to immortal works and deeds.

Similarly, ‘the private sphere’ consists of those territories of the self over which the individual seeks to exercise control and to restrict access by others. These territories are both spatial and informational in character, but physical space is much less important to our modern understanding of
the private than it was in the Ancient Greek conception of the private realm as the realm of the family and the household. Just as the public sphere has become a despatialized space, so too the private sphere has increasingly become a despatialized realm of information and symbolic content over which the individual seeks to exercise control.

The reconstitution of the public and the private as spheres of information and symbolic content that are largely detached from physical locales and increasingly interwoven with evolving technologies of communication and information flow has created a very fluid situation in which the boundaries between public and private are blurred and constantly shifting, and in which the boundaries that do exist at any point in time are porous, contestable and subject to constant negotiation and struggle. To say that the boundaries between the public and private are blurred and constantly shifting is not to say that they no longer exist, or that the very distinction between the public and the private has ceased to have any value or meaning for us today; there are some who have drawn this conclusion but it is not my view (see Sheller and Urry, 2003: 122). To jettison the distinction would be to abandon the very tools we need to make sense of what is becoming an increasingly important feature of contemporary societies. For it is precisely because we continue to value this distinction, precisely because what is made public and kept private really does matter to people, that the blurring of the boundaries has become the source of such intense concern. The ability of individuals to exercise control over the territories of the self and to restrict access by others is constantly challenged, and in some contexts compromised, by the capacity of others to avail themselves of new means – technological, political and legal – to gain access, acquire information, exploit it for their own ends and, on some occasions, make it public. The shifting boundaries between public and private life become a new battleground in modern societies, a contested terrain where individuals and organizations wage a new kind of information war, using whatever means they have at their disposal to acquire information about others and to control information about themselves, often struggling to cope with changes they did not foresee and agents whose intentions they did not understand, a terrain where established relations of power can be disrupted, lives damaged and reputations sometimes lost.

Let us now return to the great MPs’ expenses scandal and examine it through the lens of this account of the shifting boundaries between public and private life. Back in 2004, a journalist named Heather Brooke began using the Freedom of Information Act to try to get access to details of MPs’ expenses.\(^\text{12}\) The freedom of information acts that have come into force in many Western societies in recent decades are key features in the emerging landscape of the new information wars, precisely because they give individuals and organizations – including media organizations – a powerful weapon, backed up by law, to request the disclosure of information held by others, including governments and those in power. Heather Brooke had some experience using this new weapon, because she’d worked
previously at various newspapers in the US and had used the freedom of information laws in the US to get information on the spending practices of politicians. But in the UK she ran up against a great deal of resistance, partly because the Freedom of Information Act was very new and no one really knew what was permissible under it, and partly because there were some in the House of Commons who saw the dangers and actively sought to block access to information about MPs’ expenses. An intense struggle took place in the course of 2007 and 2008 to gain access to this material, with the House of Commons, under the guidance of the Speaker Michael Martin, appealing against a decision by the Information Commissioner to allow the publication of the details of the expenses of 14 MPs. This led to the convening of a special meeting of an information tribunal, which was given the task of settling the dispute. The tribunal eventually decided in favour of the Information Commissioner. The House of Commons appealed again in spring 2008, this time to the High Court, arguing that disclosure of the expenses would be an unwarranted intrusion into the lives of MPs, but it lost the case. Many MPs regarded the details of their expenses as a private matter, as information to which they could and should be able to restrict access and prevent others from seeing – part, in other words, of the territory of the self. But any right to privacy they claimed in this regard was in direct conflict with a claim on the part of others – including Heather Brooke – that they and the public had a right to know how public money raised through taxation was being spent, and in the end the right to privacy was trumped by the public right to know.

Following its defeat in the High Court in 2008, the Commons announced that it would publish, in July 2009, the expenses claims and receipts submitted by all MPs between 2004 and 2008. So they created a special unit in the Stationary Office to digitize all the claims and receipts. Once they were in an electronic form, they would be ‘redacted’ or edited so that information deemed to be sensitive could be removed. It didn’t exactly work out like that, however, partly because one of the individuals who was employed to work on the redaction of the expenses claims was so shocked and outraged by what he had seen that he (or she – we don’t know who it is) decided to leak it to the press. Since the material was now all in an electronic format, a copy could easily be made and smuggled out. So the mole contacted an intermediary, a former SAS officer named John Wick, whose job was to find a newspaper willing to take this material for a fee, alleged to be £300,000. The Times and other papers turned it down but the Daily Telegraph bought it for an undisclosed sum, though commonly thought to be around £120,000 – a relatively small fee given the explosive nature of the information.

Part of the deal struck with the Daily Telegraph was that they should publish expenses details for all MPs, not just the high-profile ones, and that they should do it quickly. So starting on 8 May 2009, the Daily Telegraph began publishing details on MPs’ expenses, starting with the Prime Minister and his claim for over £6000 paid to his brother for cleaning
services, and then the other members of the Cabinet, followed by Cameron and the members of the Shadow Cabinet, then backbenchers and so on, a handful each day, a slow drip-drip of damaging revelations flowing into the public domain, and all of this was immediately picked up by the other media, which gave it a high degree of mediated visibility. Some of the most controversial revelations had to do with claims for the cost of mortgages that had already been paid off and claims for purchasing, renovating and furnishing more than one property (MPs were allowed to claim certain costs for a second residence where this is required for the purposes of carrying out their parliamentary duties, but there were many cases where second homes were redesignated or ‘flipped’, enabling MPs to claim for more than one property). Other revelations were shocking for reasons that were as much symbolic as financial: the amount of money involved was relatively small or even trivial but the symbolic value was high. Nothing illustrated this more vividly than the claim made by Sir Peter Viggers, a wealthy Tory MP who represented the constituency of Gosport in Hampshire and who submitted a claim for £1,645 for a ‘pond feature’, which turned out on closer inspection to be a floating duck house that was anchored in the pond near his country house, an eccentric piece of landscape gardening that soon became a synecdoche for the whole unsavoury affair.

The political consequences of these revelations were both dramatic and immediate. By 20 May the Speaker of the House, Michael Martin, was forced to resign – the first Speaker to be forced out of office for 300 years. Various other resignations soon followed, and numerous MPs, both Labour and Conservative, announced that they would be standing down at the next general election, including Sir Peter Viggers. The Labour Party took a serious drubbing in the European elections in early June, coming third with only 16 percent of the vote. It was disastrous for Labour but not particularly good for the Conservatives either, as many voters, appalled by what they were seeing, turned to other parties like UKIP (the United Kingdom Independence Party, which advocates the withdrawal of the UK from Europe) and the BNP (the British National Party, a right-wing nationalist party which is strongly opposed to immigration).

This was a huge political scandal and the consequences were serious, not just for the careers of individuals who were forced to resign or decided to step down at the next election, but also for all the major political parties and for the parliamentary system more generally. Why did the disclosure of these expenses cause such a storm and have such far-reaching consequences? Let me suggest three main reasons.

First and foremost, the revelations suggested that many MPs were misusing public funds for their own personal gain. This is a classic basis for political scandal (Thompson, 2000). But the revelations were particularly damaging, and the politicians particularly vulnerable, because they came at a time when Britain was deep in recession, many people were being laid off and were struggling to make ends meet, and now they were seeing that
MPs were claiming for all sorts of things – from mortgage interest payments and home improvements to the cost of food, cleaning and gardening – at the taxpayers’ expense. Some observers of this very British scandal were surprised that what were in some cases very small sums of money could give rise to so much anger, but that was part of what was at stake here: all the rest of us have to pay for our own food and pay if we want to have someone do our garden, and here are the people who are supposed to be representing our interests and who could well afford to pay for these things but who were secretly arranging for us to pay these bills on their behalf. They may have been acting within the rules – and in many but not all cases they were – but that was beside the point, for these were rules that MPs had devised for themselves and administered behind closed doors, subject only to the notional oversight of the Commons fees office. It was not the breaking of the rules that shocked, but the practices themselves and the lengths to which elected politicians were prepared to go in order to claim additional public resources for their own personal use.

Second, and just as important, the revelations showed that the misuse was systematic in character – that is, it was not just one or two individuals who were on the make, it was virtually the entire political class. As the revelations came out it became clear that there was a systematic culture of abuse of the expenses system. The rules were loose, the oversight was poor and the enforcement was weak, and politicians from all parties were routinely milking the system, especially with regard to the rules for second homes. This was not a scandal affecting one or two wayward individuals: it was a scandal engulfing the whole political class. Just like the bankers and the speculators in the City with their big bonuses and lavish lifestyles whose reckless speculation led the government to spend hundreds of billions of pounds of public money in an attempt to shore up a collapsing financial system, so too it now seemed that the entire political class was on the make. Politicians, it seemed, were not much better than the fat-cat speculators in the City.

This leads directly to the third reason: this scandal heightened the sense of distrust that many people feel towards politicians and the political system. Look what happens when you leave politicians to regulate themselves: they cannot be trusted. And look at how hard they tried to prevent this information from being disclosed in the first place. And even when they did eventually publish the details as they said they would, it was a farce, because many of the most sensitive and outrageous claims had been blocked out, or information had been removed that would have made it impossible to figure out what had happened. This only served to reinforce the feeling that the politicians cannot be trusted. But it was all too late anyway, they needn’t have bothered, because the information was already in the public domain. This deepening distrust of politicians and the established political parties helps to explain why neither the Labour Party nor the Conservatives did particularly well in the European elections in early June, and why many voters deserted them for smaller parties on the fringes.
The MPs’ expenses scandal is a recent and dramatic example of how the shifting boundaries between public and private life are disrupting established practices and institutions and throwing whole areas of social and political life into disarray. While the public–private distinction has been with us for two millennia, there is something new about the ways in which the domains of the public and the private have been reconstituted by the rise of mediated forms of communication in early modern Europe and by the subsequent proliferation of new information and communication technologies. There is something new about the way that the public and the private have become increasingly contested domains, sites of struggle for information and symbolic content that threatens to escape the control of particular individuals. There is something new about the way that our lives now unfold in an environment where the capacity to reveal and conceal, to make things visible and prevent others from doing so, are much more difficult to control, creating a permanently unstable arena in which leaks, revelations and disclosures are always capable of disrupting the most well-laid plans. Thinkers like Arendt and Habermas were right to focus on the relation between the public and the private and to put this relation at the centre of their reflections on the changing nature of our societies, even if their ways of analysing this relation and these changes left much to be desired. The onus is now on us to renew their concerns without succumbing to the shortcomings of their accounts, to look afresh at this pivotal relation, try to understand how it is changing in our contemporary, media-saturated world and think through the consequences of these changes for the character and quality of our social, political and personal lives.

Notes
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1. For a sensitive discussion of Arendt’s neglect of questions of gender, power and exclusion in *The Human Condition*, see Benhabib (1996: esp. ch. 1).

2. See also Habermas’s subsequent essay on Hannah Arendt (Habermas, 1983), originally published in 1976.

3. See especially the many excellent essays in Calhoun (1992); see also Fraser (2007).

4. For a somewhat similar attempt to elaborate the concept of visibility and link it to the development of technologies, see Brighenti (2007).

5. This concept is developed further in Thompson (1995: ch. 4, 2005).

6. For a more detailed discussion of this theme, see Thompson (1995: ch. 4).

7. This and related aspects of electronic media are thoughtfully explored in Meyrowitz (1985, 2009).

8. The link between property and the private is explored in Ryan (1983, 1984).

9. For a good review and critique of these various conceptions, see Solove (2008).
10. For a somewhat similar attempt to draw on Goffman’s work to elaborate an account of privacy, see Cohen (1997: 157ff).

11. For a similar attempt to separate territories from spaces, see Brighenti (2010: 56–8).

12. For her own account of her investigation, see Brooke (2010: 225ff). For a general account of the expenses scandal by two journalists from the Daily Telegraph, see Winnett and Rayner (2009).

13. On the importance of circumstantial considerations in shaping the likelihood that potentially damaging revelations will harm office holders, see Adut (2008: 83–5).

References


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