

Permanent Record

“Today, “leaking” and “whistleblowing” are often treated as interchangeable. But to my mind, the term “leaking” should be used differently than it commonly is. It should be used to describe acts of disclosure one not out of public interest but out of self-interest, or in pursuit of institutional or political aims. [...] This dynamic is perhaps most brazenly exemplified by a 2013 incident in which IC officials, likely seeking to inflate the threat of terrorism and deflect criticism of mass surveillance, leaped to a few news websites extraordinarily detailed accounts of a conference call between al-Qaeda leader Ayman al-Zawahiri and his global affiliates. [...] It’s only in this context that the US government’s latitudinal relationship to leaking can be fully understood. It has forgiven “un-authorized” leaks when they’ve resulted in unexpected benefits, and forgotten “authorized” leaks when they’ve caused harm. [...] What makes one disclosure permissible, and another not? The answer is power. The answer is control.”(pp. 237-238)

“A “whistleblower,” in my definition, is a person who through hard experience has concluded that their life inside an institution as become incompatible with the principles developed in—and the loyalty owed to—the greater society outside it, to which that institution should be accountable. This person knows that they can’t remain inside the institution, and knows that the institution can’t or won’t be dismantled. Reforming the institution might be possible, however, so they blow the whistle and disclose the information to bring public pressure to bear.” (pp. 238-239)

“The Constitution was written in the eighteenth century, back when the only computers were abacuses, gear calculators, and looms, and it could take weeks or months for a communication to cross the ocean by ship. It stands to reason that computer files, whatever their contents, are our version of the Constitution’s “papers.” We certainly use them like “papers,” particularly our word-processing documents and spreadsheets, our messages and histories of inquiry. Data, meanwhile, is our version of “effects,” a catchall term for all the stuff that we own, produce, sell, and buy online. That includes, by default, metadata, which is the record of all the stuff that we own, produce, sell, and buy online—a perfect ledger of our private lives.

In the centuries since the original Constitution Day, our clouds, computers, and phones have become our homes, just as personal and intimate as our actual houses nowadays. If you don’t agree, then answer me this: Would you rather let your coworkers hang out at your home alone for an hour, or let them spend even just ten minutes alone with your unlocked phone? “

“America was born from an act of treason. The Declaration of Independence was an outrageous violation of the laws of England and yet the fullest expression of what the Founders called the “Laws of Nature,” among which was the right to defy the powers of the day and rebel on point of principle, according to the dictates of one’s conscience. The first Americans to exercise this right, the first “whistleblowers” in American history, appeared one year later—in 1777. “

“The word “privacy” itself is somewhat empty, because it is essentially indefinable, or over-definable. Each of us has our own idea of what it is. “Privacy” means something to

everyone. There is no one to whom it means nothing. It's because of this lack of common definition that citizens of pluralistic, technologically sophisticated democracies feel that they have to justify their desire for privacy and frame it as a right. But citizens of democracies don't have to justify that desire—the state, instead, must justify its violation. To refuse to claim your privacy is actually to cede it, either to a state trespassing its constitutional restraints or to a “private” business.

There is, simply, no way to ignore privacy. Because a citizenry's freedoms are interdependent, to surrender your own privacy is really to surrender everyone's. You might choose to give it up out of convenience, or under the popular pretext that privacy is only required by those who have something to hide. But saying that you don't need or want privacy because you have nothing to hide is to assume that no one should have, or could have, to hide anything— including their immigration status, unemployment history, financial history, and health records. You're assuming that no one, including yourself, might object to revealing to anyone information about their religious beliefs, political affiliations, and sexual activities, as casually as some choose to reveal their movie and music tastes and reading preferences.

Ultimately, saying that you don't care about privacy because you have nothing to hide is no different from saying you don't care about freedom of speech because you have nothing to say. Or that you don't care about freedom of the press because you don't like to read. Or that you don't care about freedom of religion because you don't believe in God. Or that you don't care about the freedom to peaceably assemble because you're a lazy, antisocial agoraphobe. Just because this or that freedom might not have meaning to you today doesn't mean that it doesn't or won't have meaning tomorrow, to you, or to your neighbor—or to the crowds of principled dissidents I was following on my phone who were protesting halfway across the planet, hoping to gain just a fraction of the freedoms that my country was busily dismantling. “

On Liberty

“If all mankind minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind. Were an opinion a personal possession of no value except to the owner; if to be obstructed in the enjoyment of it were simply a private injury, it would make some difference whether the injury was inflicted only on a few persons or on many. But the peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error.” (p.31)

“It is the duty of governments, and of individuals, to form the truest opinions they can; to form them carefully, and never impose them upon others unless they are quite sure of being right. But when they are sure (such reasoners may say), it is not conscientiousness but cowardice to shrink from acting on their opinions, and allow doctrines which they honestly think dangerous to

the welfare of mankind, either in this life or in another, to be scattered abroad without restraint, because other people, in less enlightened times, have persecuted opinions now believed to be true.” (p.35)

“Complete liberty of contradicting and disproving our opinion, is the very condition which justifies us in assuming its truth for purposes of action; and on no other terms can a being with human faculties have any rational assurance of being right.” (p.36)

“Nor is it enough that he should hear the arguments of adversaries from his own teachers, presented as they state them, and accompanied by what they offer as refutations. That is not the way to do justice to the arguments, or bring them into real contact with his own mind. He must be able to hear them from persons who actually believe them; who defend them in earnest, and do their very utmost for them. He must know them in their most plausible and persuasive form; “ (p.68)

4th Amendment

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”