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Privacy: Its Destruction and the Struggle to Preserve It

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BOOK REVIEW

PRIVACY: ITS DESTRUCTION AND THE STRUGGLE TO PRESERVE IT

In his book *The Unwanted Gaze: The Destruction of Privacy in America*, author Jeffrey Rosen explains what is at the core of the debate on privacy:

In society, it is impossible not to have your dignity assaulted by the unwanted gazes of others, and not to be misdefined and misjudged and wrenched out of context. Society is an orgy of judgments and misjudgments. But by respecting the boundaries between public and private speech and conduct, a liberal state can provide sanctuaries from the invasions of privacy that are inevitable in social interactions. And as technology allows us to reconstruct private spaces at home, at work, and in cyberspace, law should not stand in its way.¹

It is from this standpoint that I present a review of two interesting books that deal with the issue of privacy in North American society. These books explore privacy's deterioration due to the advancements in technology and the media and the struggle to reclaim it: Jeffrey Rosen's *The Unwanted Gaze: The Destruction of Privacy in America* and Clay Calvert's *Voyeur Nation: Media, Privacy, and Peering in Modern Culture*. Although different in perspective and focus, authors Jeffrey Rosen and Clay Calvert shed light on the causes of the deteriorating status of an individual's privacy.

Jeffrey Rosen, an associate professor at the George Washington University Law School and Legal Affairs editor of *The New Republic*, brings to his analysis of the privacy problem depth in the legal underpinnings and issues tied to the invasion of privacy by the media, the government, and cyberspace. With his book, *The Unwanted Gaze: The*

¹ JEFFREY ROSEN, *THE UNWANTED GAZE: THE DESTRUCTION OF PRIVACY IN AMERICA* 223 (Random House 2000).

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Destruction of Privacy in America, Rosen gives us a masterwork that explores the legal ramifications of the 4th Amendment with regard to unconstitutional search and seizure as well as to security of person within one's home and effects. Rosen discusses the indignities suffered by victims of invasions of privacy. From events such as the Paula Jones case and the Clarence Thomas confirmation hearings, to the vulnerability suffered by all Internet users because of easily traceable electronic footprints left behind thanks to website cookies and indestructible email, Rosen demonstrates the effects of changes wrought by technology in communications on American culture, society and its institutions.

Where everything that we say, write, read or buy is recorded and monitored in cyberspace, Rosen points out that not only is our privacy violated, but also that our very persons and characters are distorted and misjudged by those doing the monitoring. Unfortunately, it is in this way that information becomes confused with knowledge. Consequently, we become vulnerable to misinterpretation and misjudgment by strangers.

Going one step further, Rosen examines the expansion of sexual harassment law that gives employers incentive to monitor employees' email, Internet browsing habits, and office relationships. Offensive speech in the workplace also comes under scrutiny and is suggested to be more of an invasion of the victim's privacy than sexual harassment. Rosen offers a fascinating and illuminating argument on this distinction. His insightful, incisive, and novel legal analysis of all these issues written in a cogent and clear writing style makes for a hard-to-put-down read on the subject of privacy. Rosen bolsters his arguments with lucidly drawn examples from history and contemporary events that make our understanding of the concepts, principles of law, and issues at stake easier to understand. As a true educator, Jeffrey Rosen does an excellent job in teaching us the importance of becoming more proactive and vigilant in protecting our right to privacy.

Clay Calvert, an associate professor of communications and law at Penn State University, takes a very different approach to the question of privacy issues in our society in his book *Voyeur Nation: Media, Privacy, and Peering in Modern Culture*. Calvert takes an interdisciplinary approach. Whereas Rosen takes an objective view based on points of law, Calvert often takes an opinionated view without offering any

apologies. Calvert states in his introduction that his book “does take a stand at various points and it can at times be quite sarcastic, if not flippant, in tone. Those seeking complete objectivity and fairness are strongly encouraged to search for other books to balance out the perspective set forth here.”²

Where Jeffrey Rosen argues for the defense and protection of privacy, Clay Calvert pushes the envelope. Calvert introduces the concept of *mediated voyeurism* as “the consumption of revealing images of and information about others’ apparently real and unguarded lives, often yet not always for the purposes of entertainment but frequently at the expense of privacy and discourse, through the means of the mass media and Internet.”³ Citing the mass media in particular, Calvert explains the four categories of mediated voyeurism – video vérité voyeurism, reconstruction voyeurism, tell-all/show-all voyeurism and sexual voyeurism.⁴ Calvert suggests that, through these categories, the subject and the viewer join in a Faustian pact: I reveal all for profit, celebrity, attention or exhibitionism and you satisfy your curiosity at a safe distance without involving yourself in my life. Hence, the subject willingly reveals what is private and the viewer becomes the unwitting voyeur. Privacy is sacrificed.

Clay Calvert minces no words in pointing out the irony that, while we worry about safeguarding our privacy on many levels, we run the risk of aiding and abetting the mass media’s and the Internet’s striving to reveal everything about people’s private lives, be they mere mortals, notable celebrities or politicians. Calvert’s sarcastic tone, evidenced by his writing style, purposefully underscores what seems to be the futility of defending privacy in the face of the prying eyes and minds of readers and viewers. Unfortunately, this prying and abetted curiosity is in large part thanks to the telecommunications-mass media juggernaut’s self-justifying dictum: *inquiring minds want to know*.

The publication of the Ken Starr Report of the President Clinton investigation and the ensuing Monica-gate scandal are excellent examples of the invasion of personal privacy, the

² CLAY CALVERT, *VOYEUR NATION: MEDIA, PRIVACY, AND PEERING IN MODERN CULTURE* 15 (Westview Press 2000)

³ *Id.* at 2-3.

⁴ *Id.* at 4.

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devastation of personal and professional reputation, and the erosion of 4th Amendment rights. In the hands of the mass media, these recent events are also examples of mediated voyeurism. More importantly, these pivotal events support Jeffrey Rosen's thesis that privacy is important, not only in and of itself as a concept, but also because it safeguards:

. . .the importance of maintaining private spaces to protect individuals from being judged out of context in a world of fleeting attention spans . . . that all Americans are entitled to be regarded as self-defining individuals rather than as prisoners of sexual stereotypes and generalizations. The ideal of privacy, similarly, insists that individuals should be allowed to define themselves, and to decide how much of themselves to reveal or to conceal in different situations.⁵

Where Jeffrey Rosen tends to guide us, Clay Calvert educates us with a strong, up-front manner. With the skill of a litigator and a penchant for playing devil's advocate, Calvert provokes and challenges us to rethink our ideas and notions of privacy in the light of mediated voyeurism. Can privacy be protected when certain individuals willingly give up their privacy for ulterior motives? Do we not contradict ourselves when we watch television programs such *20/20* or motion pictures such as *Edtv*, as we become voyeurs in viewing other peoples' lives and their problems?

Clay Calvert's biting wit, along with detailed and well-chosen examples, presents us with a page turning reading experience. Like the mass media, he astutely keeps us hooked. Although this is a brilliant stylistic device, it can render his apparent goal of driving his point-of-view home to his readers as somewhat heavy-handed and occasionally irritating. Calvert educates by convincing and exhorting his audience, succeeding in making his case intelligently and thought-provokingly. In this way, Clay Calvert's contribution to the discussion of privacy issues - its destruction and rehabilitation - warrants his book as worthy of consideration as a seminal and novel work in the body of literature that exists in this area of legal and communications studies. As a true

⁵ See Rosen, *supra* note 1.

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interdisciplinary, Professor Calvert educates us to think outside of the box.

What better way is there to begin one's education on privacy and its increasing erosion? With this crucial subject, which holds so much at stake for all of us, I highly recommend *Voyeur Nation: Media, Privacy, and Peering in America* as an eye-opening and jolting reading experience and *The Unwanted Gaze: The Destruction of Privacy in America* as a galvanizing call to vigilance and action in protecting and saving our right to privacy.

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