

Lesson 10

Sexting

Reading 1

Excerpt from Rachels' (1975) article, "Why Privacy is Important."

Rachels, J. (1975). Why privacy is important. *Philosophy and Public Affairs*, 4(4), 331-333.

"Thomson suggests, 'as a simplifying hypothesis, that the right to privacy is itself a cluster of rights, and that it is not a distinct cluster of rights but itself intersects with the cluster of rights which the right over the person consists of, and also with the cluster of rights which owning property consists of.' This hypothesis is 'simplifying' because it eliminates the right to privacy as anything distinctive.

'The right over the person' consists of such 'un-grand' rights as the right not to have various parts of one's body looked at, the right not to have one's elbow painted green, and so on. Thomson understands these rights as analogous to property rights. The idea is that our bodies are *ours* and so we have the same rights with respect to them that we have with respect to our other possessions.

But now consider the right not to have various parts of one's body looked at. Insofar as this is a matter of *privacy*, it is not simply analogous to property rights; for the kind of interest we have in controlling who looks at what parts of our bodies is very different from the interest we have in our cars or fountain pens. For most of us, physical intimacy is a part of very special sorts of personal relationships. Exposing one's knee or one's face to someone may not count for us as physical intimacy, but exposing a breast, and allowing it to be seen and touched, does. Of course the details are to some extent a matter of social convention; that is why it is easy for us to imagine, say, a Victorian woman for whom an exposed knee would be a sign of intimacy. She would be right to be distressed at learning that she had absent-mindedly left a knee uncovered and that someone was looking at it-if the observer was not her spouse or her lover. By dissociating the body from ideas of physical intimacy, and the complex of personal relationships of which such intimacies are a part, we can make this "right over the body" seem to be nothing more than an un-grand kind of property right; but that dissociation separates the matters that make *privacy* important.

Thomson asks whether it violates your right to privacy for acquaintances to indulge in 'very personal gossip' about you, when they got the information without violating your rights, and they are not violating any confidences in telling what they tell. (See part VIII, case (e), in Thomson's paper.) She thinks they do not violate your right to privacy, but that if they do 'there is trouble for the simplifying hypothesis.'

This is, as she says, a debatable case, but if my account of why privacy is important is correct, we have at least some reason to think that your right to privacy can be violated in such a case. Let us fill in some details. Suppose you are recently divorced, and the reason your marriage failed is that you became impotent shortly after the wedding. You have shared your troubles with your closest friend, but this is not the sort of thing you want everyone to know. Not only would it be humiliating for everyone to know, it is none of their business. It is the sort of intimate fact about you that is not appropriate for strangers or casual acquaintances to know. But now the gossips have obtained the information (perhaps one of them innocently overheard your discussion with your friend; it was not his fault, so he did not violate your privacy in the hearing, but then you did not know he was within earshot) and now they are spreading it around to everyone who knows you and to some who do not. Are they violating your right to privacy? I think they are. If so, it is not surprising, for the interest involved in this case is just the sort of interest which the right to privacy typically protects. Since the right that is violated in this case is not also a property right, or a right over the person, the simplifying hypothesis fails. But this should not be surprising, either, for if the right to privacy has a different point than these other rights, we should not expect it always to overlap with them. And even if it did always overlap, we could still regard the right to privacy as a distinctive sort of right in virtue of the special kind of interest it protects (pp. 331-333)."