
Sarah IGO, *The Known Citizen* (Harvard University Press, 2018)

The salience of privacy in America's collective conscience is frequently traced back to a single essay. Written in 1890 for the *Harvard Law Review* by Samuel Warren and future Supreme Court justice Louis Brandeis, the text articulated a "right to privacy" against inquisitive journalists and intrusive photographers who had begun to publish personal information in newspapers and magazines.¹ Over the course of a century, it became the second most-cited legal essay in history and the perceived founding document of a distinctly American school of thought about the "right to be let alone."² But as an epochal marker, the essay has always been a poor choice. Discussions of privacy had circulated through the American legal system decades before its publication. Popular perceptions of privacy also went far beyond the relatively narrow scope of Warren and Brandeis' claims about the intrusiveness of the yellow press. In 1902, for example, the *Los Angeles Times* proclaimed privacy to be a matter of near-ubiquitous concern in modern society.³ "From the cradle to the grave", the paper editorialized, "the private citizen is constantly in the glare of the calcium." Advertisers, city clerks, school officials, health inspectors, landlords, employers, insurance salesmen, policemen, pawnbrokers, and census enumerators all threatened to intrude into the living rooms, checkbooks, bodies, and habits of individuals.

How the lens of privacy framed such a kaleidoscopic range of topics is a question that permeates *The Known Citizen*, Sarah Igo's recently published history of privacy in the United States. Igo treats privacy not as an abstract concept with stable meaning but as a pliable idea—or, in her words, as "a crucial category of public life and a durable feature of partisan politics"—that has been invoked since the 19th century to articulate, contest, and resolve a strikingly large array of legal, political, and cultural debates [6].

Igo periodizes the history of privacy into a series of pivotal moments: mass media and new communication technologies fueled

¹ Samuel D. Warren and Louis D. Brandeis, 1890, "The Right to Privacy," *Harvard Law Review*: 193-220.

² Fred. R. Shapiro and Michelle Pearse, 2012, "The Most-Cited Law Review Articles

of All Time," *Michigan Law Review*, 110 (8): 1483-1520.

³ "No Privacy in City Life," *The Los Angeles Times*, August 10, 1902: C5.

concerns over the unwarranted exposure of personal information by unscrupulous publishers and wire-tappers in the waning decades of the 19th century. The enlargement of bureaucratic agencies called attention to the state as a potentially intrusive force in the early 20th century. The postwar boom of psychological research and direct-to-consumer marketing highlighted the invasiveness of science and markets. The rights revolution of the 1960s ushered in a new era of constitutional protections as sexual activity and reproductive rights came to be regarded as matters of privacy. Advances in computational data processing in the 1970s and 1980s spawned new debates about the virtue of transparency and the importance of consent. Finally, 21st century technologies facilitated state surveillance alongside voluntary information sharing and helped to expand, in Hannah Arendt's words, "that curiously hybrid realm where private interests assume public significance."⁴ Notwithstanding the book's title, Igo thus shows that privacy acquired greater salience not just in the wake of state efforts to know and classify its citizens during the New Deal years and the Cold War, but also during periods when inquiries by scientists, marketing companies, and neighbors threatened to reveal intimate aspects of the human psyche. The distinction between private and public reflected not just on the relationship between citizens and the state but also on the connections between self and society.

Some chapters cover relatively familiar ground. When Igo writes that "the key problem in the late 1960s and early 1970s was the invisibility of the watchers" rather than the public disclosure of personal information in the press, Foucauldian theories of the disciplinary society and James Rule's early empirical works on state surveillance loom large [223].⁵ But Igo is at her best when she strays from the beaten path. In one of the book's most compelling chapters, she documents the strange evolution of social security numbers (SSNs). Conceived as a convenient way of rendering individuals visible to a growing welfare bureaucracy, SSNs were initially published in newspapers, broadcast by radio stations, engraved onto dog tags, and tattooed onto forearms. As a "beneficent technology of citizenship," they enabled easy identification and legitimated welfare claims during periods of mass migration and economic crisis [98]. But personal identifiers subsequently morphed into closely guarded data:

⁴ Hannah Arendt, 1958, *The Human Condition* (Chicago, The University of Chicago Press: 35).

⁵ James Rule, 1973, *Private Lives and Public Surveillance* (London, Allen Lane).

the epistemic status of SSNs changed when concerns about state surveillance began to outweigh attempts to access state benefits.

Yet in some of the book's most significant passages, Igo also pours cold water on the belief that Americans resisted public exposure *per se*. SSNs became popular precisely because they allowed individuals to be tracked by welfare providers during the New Deal era. In postwar suburbia, residents fiercely defended their privacy but also exhibited themselves and their social status to the surrounding community. Today, talk shows and social media provide entirely new avenues for public confessions. In short, the quest for privacy evolved alongside the desire to tell stories of oneself in public. Igo's book thus serves as a reminder that the ideas which were supposed to enshrine "a refuge from the world [...] turned out to be infiltrated by it through and through" [118-119]. Americans simultaneously pursued more privacy and a greater public presence by redefining the meaning of both.

In passages like these, *The Known Citizen* offers a welcome corrective to theories that emphasize the mutual exclusivity of categories like public and private. Privacy is often said to exist when the boundary between public and private remains impermeable, when information cannot easily flow across it, and when it separates categorically distinct forms of human conduct. One is here, the other is there, and never the twain shall mix. For example, the ancient Greeks—who still feature as a common reference in legal theories of privacy—defined the private world of the household against the *bios politikos* of the community. When Diogenes masturbated in the city square of Athens, the resulting outrage was not due to the act itself. Instead, it was the conflation of public space and private conduct that upset Athenian sensibilities. Yet as Igo shows, public and private have always gone hand in hand, and have often derived meaning and significance from each other.

This point is especially timely: it has become commonplace to proclaim the death of privacy, either because it has been rendered infeasible by a knowledge economy that relies on the commodification of personal data, or because it has been swiftly traded away by consumers in exchange for greater convenience. Yet this is a slightly myopic and somewhat American view. In Europe, privacy has increasingly been linked to (and valued as) consent over data collection. In other countries, it has been framed as anonymity against powerful state security apparatuses. And Igo shows that privacy has remained a fixture and fixation even in the United States as its application and interpretation have evolved.

Elsewhere in the book, Igo draws attention to the politics of class, race, and gender that often intersect with privacy but are rarely afforded prominence in legal histories. She does not fall into the trap of dismissing privacy as an inherently bourgeois desire, but aptly points out that privacy debates often reflected the interests of elites. Would Samuel Warren have developed a sudden preoccupation with privacy if Boston's society papers hadn't published a series of unsolicited articles about his wife's dinner parties? It is doubtful. The same is true for access to privacy protections: when men argued for greater domestic privacy, the term often served as a thinly veiled synonym for the exclusion, seclusion, and isolation of women. And in recent decades, seemingly universal rights have often protected "not privacy writ large, but marital, heterosexual, and reproductive privacy" for those with high social status [157]. While white suburban homeowners found themselves covered by an expanding constitutional shield in the 1960s and 1970s, welfare recipients and minority populations continued to live on the lower rung of an increasingly two-tiered privacy regime, where greatly increased visibility to government agencies was a common prerequisite for access to the social safety net.

Several of Igo's arguments echo the works of others. Like Raymond Geuss, she dispels the belief that privacy has a single self-evident meaning.⁶ Like Barrington Moore, she casts privacy as a way of managing society's demands upon the individual.⁷ Like Edward Shils, whose works are frequently cited, she argues that privacy debates often turned on who could and should exercise control over information.⁸ And like Richard Sennett, she emphasizes the significance of culture as a medium through which privacy norms are articulated and transmitted.⁹ But Igo assembles these varied perspectives in one place for the first time and also corrects several of her predecessors' errant claims, like Shils' insistence on the 19th century as the golden but bygone age of privacy. She demonstrates persuasively that privacy debates did not dissipate when urbanization and mass communication technologies increased the scale of social interaction and information exchange. To the contrary: amidst sweeping social change, the language of privacy helped to articulate new claims

⁶ Raymond Geuss, 2001, *Public Goods, Private Goods* (Princeton, Princeton University Press).

⁷ Barrington Moore, 1984, *Privacy: Studies in Social and Cultural History* (London, Routledge).

⁸ Edward Shils, 1966, "Privacy: Its constitution and vicissitudes," *Law and Contemporary Problems*, 31(2): 281-306.

⁹ Richard Sennett, 1977, *The Fall of Public Man* (New York, W. W. Norton & Company).

about the secrecy of information, the importance of private space, and the sanctity of the human psyche.

Igo's book is less useful for understanding why particular interpretations of privacy gained legal influence and cultural currency. At first, this appears to be by choice: Igo treats privacy as "a cultural sensibility and public value" and largely avoids the language of causality [7]. Because chains of influence are often "impossible to prove" [154], she foregrounds "less expected places where privacy talk percolated in modern America: scientific laboratories and family living rooms, marketing agencies and welfare bureaus, social movements and therapeutic encounters" [15]. *The Known Citizen* is a book about sites and modes of articulation rather than drivers of change.

But causal logic frequently seeps into Igo's writing. At various points, she cites new technologies, scientific knowledge, governmental practice, the language of totalitarianism, courts, social movements, consumer markets, and postwar architecture as transformational forces. She argues that the evolution of privacy was not "foreordained" but prevaricates about its catalysts [149]. Was it an "accidental" feature of history that is only loosely coupled with macro-social trends, as Igo suggests in her analysis of Supreme Court decisions in the 1960s? Or is it true that technological forces and social shifts channeled the evolution of privacy into a predictable and particular direction?

The Known Citizen demonstrates that privacy is a decidedly capacious concept. Its content is pliable; its evolution is contingent. So why have we, of all possible worlds, arrived in this one? Perhaps an answer to the causal question lingers between the lines and in Igo's research methodology. While her book is ostensibly concerned with documenting "what has happened to citizens' thinking about privacy" [11], much of her data pertains to government institutions, civil society organizations, newspapers, and social scientists. Indeed, Igo readily concedes that several pivotal debates sparked only "meager public attention" and were largely "cloistered" among experts and journalists [165-171]. Their proliferation had less to do with the severity of privacy violations or the pervasiveness of grievances than with the ability and willingness of cultural elites to become spokespersons for privacy. As Igo argues, privacy would have been imagined otherwise if different social groups had asserted their influence.

In fact, it sometimes was: in one telling episode, she recounts changes to the Social Security enrollment process in the 1930s. The Social Security Board had originally designed a system that required workers to file welfare applications through their employers. Yet labor

unions quickly mobilized against it, driven by fears that companies would use personal data to surveil their employees. Union officials argued that workers had a right to privacy against their bosses even if they freely shared information with the federal bureaucracy. In the face of mounting union pressure, the Social Security Board relented. Application forms could be mailed directly to Washington DC or could be entrusted to local union stewards. The state retained the right to know its citizens—yet no employer would lay eyes on private information.

This subterranean life of privacy is frequently overshadowed in *The Known Citizen* by the rhetoric of cultural sensibilities, but it highlights the centrality of institutional actors to the evolution of an idea. Situated somewhere between the macrosocial domain of technological change and microsocial shifts in individual attitudes, they gave shape and substance to the concept of privacy and help to explain its diffusion into new domains of public discourse and legal practice. They allow us to apprehend the proliferation of privacy not as the result of its inherent public appeal or as the necessary consequence of technological innovation, but as a product of institutional realignments, discursive monopolization, and deliberate interpretive closure.

In the 20th century, privacy was wrestled into new shapes by labor unions and federal agencies but also by relatively informal groups like the National Committee for Citizens in Education, the AIDS Coalition to Unleash Power, or by communities of journalists and social scientists. In many instances, these groups responded not to sweeping changes in public discourse and public attitudes but, in Vincent Dubois' words, to the practical demands of the "street level":¹⁰ confronted in their daily work with matters of privacy, they offered preliminary solutions that could crystallize through repetition and rearticulation into logics with far-reaching consequences. Federal officials redesigned survey forms; scientists reorganized their research practices around the informed consent of their subjects; AIDS activists relied on Supreme Court precedent to mobilize the legal community; academics wrote into emerging literatures about surveillance and suburbia. Each of these practices gave concrete meaning to privacy and helped to mobilize a constituency in its defense.

Yet totalizing claims about successive historical epochs begin to appear dubious if the evolution of privacy reflects social dynamics

¹⁰ Vincent Dubois, 2012, "Le rôle des street-level bureaucrats dans la conduite de l'action publique en France" [available at : <https://halshs.archives-ouvertes.fr/halshs-00660673>].

among multiple groups. For example, Igo writes that privacy lost its propertied foundations and gained a more psychological profile when behavioral science and targeted advertising assumed greater prominence and changed the relationship between citizens, science, and markets in the postwar decades. But this neatly periodized history is hard to square with the richness of her own empirical narrative, which concedes that privacy “denoted an interior sanctuary as much as an exterior, physical one” a century earlier [21]: among bourgeois elites and Victorian novelists of the 19th century, it already had a profoundly psychological connotation. Privacy, it turns out, was a multifarious concept not just in its historical evolution but also within each historical period. Different groups embraced varied interpretations of privacy—and fueled divergent discourses about privacy—that combined into a complex topology rather than a unified episteme.

This is most evident in the conclusion to Igo’s book, which covers a large array of privacy debates in the present. Without the benefit of historical hindsight, Igo suggests an indeterminate future, filled in equal parts with new threats to privacy and new mechanisms of accountability. The sharing of personal data is now so deeply baked into business models, state practices, and habits of media consumption that interpretations of privacy as information control seem increasingly far-fetched and are often undesirable. But concerns about micro-targeting have also become more prominent. They have sparked campaigns against data creep—i.e. the combination of minute information from different sources to build detailed behavioral profiles—and have fueled a renewed emphasis on consent in information processing. *The Known Citizen* might treat such debates as snapshots of the collective conscience of 21st century America. But perhaps it is more accurate to see them as echoes of institutional realignments between internet companies, media organizations, regulatory agencies, civic organizations, legislators, and legal experts—each defending its interests, engaging its constituents, and negotiating with each other about the proper scope and substance of privacy. After all, the ambiguity of concepts does not imply their indeterminacy or futility but suggests that they can be, and often will be, adapted to serve a multitude of agendas.

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