Political Leadership and the Social Value of Privacy

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Traditional liberal arguments ground the value of privacy in the contribution it makes to individuality and to our relationships.1 We need privacy to develop and exercise autonomous agency (Nagel 1998), and privacy is necessary if we are to form and nurture the relationships we have with others, including our friends and spouses (Rachels 1975; see also Nagel 1998). In this paper, however, I consider an argument aimed particularly at protecting the privacy of people in political life.

Thomas Nagel famously defends privacy’s social value, and he argues that our obsession with leaders’ private lives “results in real damage to the condition of the public sphere (Nagel 1998).” Although Nagel’s analysis is set in the context of the Clinton years, his argument is no less relevant today as we watch a parade of political actors struggle to revive their public lives in the aftermath of personal, often sexual, embarrassments. Because consensual sexual activity is a paradigmatic case of private behavior, it will serve as the principal example in my paper (ibid.). But my argument will also have implications for other potentially private concerns, such as a leader’s youthful experimentation with drugs or his or her religious beliefs.

Nagel makes two main arguments from the social value of privacy in the political sphere. First, aggressive public scrutiny causes us to lose candidates who “cannot take that kind of exposure” and who “are discredited or tarnished in ways that have nothing to do with their real qualifications or achievements” (ibid.). Second, Nagel claims that infringements on privacy disrupt the public sphere by introducing “irrelevant and titillating material” into the political process (ibid.).

My thesis in this paper is that arguments for the social value of privacy, however important to the functioning of civilization more generally, do not work in the context of political leadership. Unless we assume that facts about a leader’s private life are not relevant to his or her fitness to serve—that they have “nothing to do with their real qualifications”—we cannot infer that the costs of losing otherwise qualified candidates are always too high to pay. Moreover, as I shall argue, in view of the current disharmony in the political sphere, the inclusion of personal facts may be an inescapable, even justifiable, aspect of the political process. Such facts will sometimes be relevant because the controversies political leaders have to face are often about the public-private divide itself.

Weighing the Costs of Exposure

Consider the argument that some potential leaders, who might serve the public well, are unwilling to submit to the exposure that comes with political office even though they have nothing of which to be ashamed. Their choice to forego—or limit—participation in public life may be based on fears of potential smears and other forms of vilification by political opponents. These individuals, who would be seen as relatively “innocent” by all, still value their privacy, and it would be little consolation for them to learn that a close examination of the details of their private lives would uncover nothing of significance.

Evidence in support of this claim is more anecdotal than empirical. For example, former Indiana governor Mitch Daniels’s decision not to seek the Republican nomination in the 2012 United States presidential election was attributed in part to his worries about privacy. In Daniels’s case, the questions he would have faced were not so much about his own behavior as about his wife’s behavior: she left Daniels...
and their children, divorced him, and then later remarried him (Zeleny 2011). This example suggests that one potential by-product of the political vetting process is that we risk losing even individuals with relatively stainless, albeit complicated, private lives. Given the nature of our information-gathering techniques, we cannot discover what we take to be disqualifying personal characteristics of non-acceptable candidates without learning more than we intended to know about other candidates, things that we might ultimately find acceptable.4

The other consequence to which the first argument appeals is that we also lose well-qualified individuals whose personal behavior is not so innocent. Nagel considers this result a cost because “the sex lives of politicians [are] rightly treated as irrelevant to the assessment of their qualifications...” (Nagel 1998). But notice that the exclusion from political candidacy of individuals with indiscrete personal lives may be precisely the aim of those who disagree with Nagel. His social costs argument cannot simply assume, then, that someone with personal failings of this sort might nonetheless be a good (enough) leader. This assumption ignores the very point of contention in the privacy debate—namely, the relevance of personal sexual behavior to political life.5 If personal sexual behavior is understood as a qualification or disqualification from office, what Nagel sees as costs may be seen as gains to those on the other side of the argument.

Those who think that private behavior bears on the fitness of candidates to serve in public office may admit that capable potential candidates will withdraw from the political process—candidates who would be qualified to serve but are unwilling to suffer through the humiliation of defending themselves against false charges. So, despite the lack of empirical evidence, we can nonetheless concede that a political process that picks apart the personal lives of candidates “shrink[s] the pool of willing and viable candidates for responsible positions” (Nagel 1998; see also Schauer 2000). Whether one is willing to accept the costs of this shrinkage will depend on one’s view of what facts about a candidate’s life are relevant to his qualifications. Other things being equal, the broader our criteria for relevance, the more likely it is that we may think the benefits of excluding candidates who fail a test of private morality outweigh the costs of exposing all candidates to a level of personal scrutiny that may drive away worthy and even excellent potential leaders.

Protecting the Political Sphere

The second argument from the social value of privacy in the political sphere builds on a more general argument, one that Nagel develops at much greater length. As a general case for privacy in a liberal society, this argument is quite convincing: “privacy serve[s] a valuable function in keeping us out of each other’s faces” (Nagel 1998). We each have disquieting beliefs and attitudes, and a well-functioning society depends on excluding many of them from public knowledge. For, according to Nagel, “[C]ivilization would be impossible if we could all read each other's minds” because “social space...is severely limited. What is admitted into that space has to be constrained both to avoid crowding and to prevent conflict and offense” (ibid.).

These limits are essential in modern democratic states because of the pluralism that characterizes them (ibid.). Great diversity of thought and opinion among citizens is possible only if we lower our expectations for commonality of belief. We therefore need a “boundary between what is acknowledged and what is not,” the purpose of which “is to admit or decline to admit potentially significant material into the category of what must be taken into consideration and responded to collectively by all parties in the joint enterprise of discourse, action, and justification that proceeds between individuals whenever they come into contact” (ibid.). Otherwise, public interaction is bound to “turn into a collision” (ibid.). Liberalism demands both that we leave adequate room for the autonomous individual to have an “inner life” and that we avoid the social disaster of emptying the contents of our inner lives—our most personal thoughts and feelings—into public spaces (ibid.; see also Velleman 2001).

Nagel believes that this argument has implications for political life: “The liberal idea, in society and culture as in politics, is that no more should be subjected to the demands of public response than is necessary for the requirements of collective life” (Nagel 1998). For one thing, our interest in the sex lives of political leaders “clog[s] up our public life and the procedures for selection of public officials” (ibid.). But the problem, he suggests, is potentially more serious than this. Pointing to sex scandals such
as the one that derailed Gary Hart’s presidential bid, Nagel writes,

[T]hese forms of exposure are in themselves very damaging to public life, and the fact that they have become commonplace shows that American society has lost its grip on a fundamental value, one that cannot be enforced by law alone but without which civilization would not survive…Civilization is a delicate structure that allows wildly different and complex individuals to cooperate peacefully and effectively only if not too much strain is put on it by the introduction of disruptive private material, to which no collective response is necessary or possible. Americans who recognize this fact can only look on in shame at the destructive spectacle now being acted out by a group of childish and powerful figures who have never understood it. (Nagel 2002)

In other words, our fixation on the private lives of leaders is part of a much larger threat, a threat that potentially undermines the conditions necessary for liberal society.

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I believe that this argument overstates the connection between the importance of privacy in the functioning of civilization and the role of personal privacy in the political process. From the fact that public space cannot hold all of our personal thoughts and feelings, it hardly follows that there is no room in the political sphere for the examination of the personal behaviors, beliefs, and attitudes of our leaders. No one is suggesting that all of us share the contents of our private lives; indeed, that would be disastrous. Nor must leaders lay “bare [their] souls” (Nagel 1998). Rather, the claim of those who disagree with Nagel is that political leaders might be required to endure significantly more personal scrutiny than the rest of us do. As Nagel himself notes, liberal democratic institutions allow many of us to avoid public life altogether, if that is what we choose (ibid.). For those who do choose public life, however, we will sometimes be interested in their behavior and, especially, the beliefs and attitudes that go along with it. The question, then, is not whether civilization can survive the introduction of private matters in the political sphere but, instead, whether these matters are “uselessly disruptive” (Nagel 2002). At the heart of this charge is a substantive view of the political relevance of personal facts.

Nagel admits that the boundaries between public and private life are fluid and must be determined by what “is necessary for the requirements of collective life… [given] the company, and the circumstances” (Nagel 1998). In other words, our expectations of privacy and publicity vary with the context and with what the parties to the relationship stand to gain or lose by virtue of their participation in the exchange:

What is allowed to become public and what is kept private in any given transaction will depend on what needs to be taken into collective consideration for the purposes of the transaction and what would on the contrary disrupt it if introduced into the public space. That doesn’t mean that nothing will become public which is a potential source of conflict, because it is the purpose of many transactions to allow conflicts to surface so that they can be dealt with, and either collectively resolved or revealed as unresolvable. (ibid.)

The contextual nature of the boundary between the private and the public leaves open the possibility that leadership contexts might demand less privacy and more publicity. To determine whether a particular matter ought to be made public, we would need to establish the effect of its introduction on collective purposes. For Nagel, it seems, whatever advances these purposes is relevant, whereas what is irrelevant constitutes an impediment to achieving them. We can make a determination of relevance, thus fixing this boundary, only when we know whether paying attention to facts about a leader’s private life would help us resolve—or, instead, distract us from—current political problems.
The Current Business of Politics

It is worth noting at the outset that from the fact that a piece of information is irrelevant to the political process, it does not follow that citizens or public officials should be shielded from its exposure. Lots of things are irrelevant, including much of what passes for political reporting, but we do not mark these things off for exclusion from public discourse. In fact, unnecessary distractions are a pretty large part of the political process. So, to defend exclusion of issues in a leader’s private life from the political sphere, Nagel would need to show more than that they are merely distractions. He would also need to show that we have special reasons to keep them out of the process. Otherwise one may accept Nagel’s claim that some details of a leader’s private life will be irrelevant and distracting without concluding that there are sufficient grounds for excluding them. What I want to challenge in the remainder of this paper, however, is the blanket claim of irrelevance. In some cases, there may be good reasons to include facts about a leader’s private life in political discourse.

The claim of irrelevance ultimately rests on an incomplete view of the issues that currently sit in the political sphere awaiting resolution. Nagel’s list, for example, includes only “issues of justice, of economics, of security, of defense, of the definition and protection of public goods” (ibid.). Admittedly, this narrow view of political life lends some support to the claim that the private behavior or privately held beliefs and attitudes of leaders are “completely irrelevant to the occupation of a position of public trust…” (ibid.). If we set aside questions about the compartmentalization of character and assume, say, that private dishonesty is unrelated to honest or dishonest behavior in public life, it is hard to see how facts about a leader’s private life might be relevant to how he would address these issues. But a broader view of the issues that await resolution (or a broad view of what is included within Nagel’s “issues of justice”) would give us much greater reason to see facts about a leader’s private life as relevant to how he might approach their resolution. This broader view—more accurate to my mind—would include many of the controversial issues we currently face: the “war on drugs” with its resultant mass incarceration, gay marriage, healthcare, the nature of the family, etc. For better or worse, grappling with these issues is part of the business of politics and, for the time being, there is little social harmony to disrupt.

Notice, for example, that Nagel makes his claim about the irrelevance of personal behavior in political contexts as part of his discussion of the Senate hearings for Supreme Court nominee Clarence Thomas (ibid.). Nagel writes:

Clarence Thomas’s nomination to the Supreme Court could have been legitimately rejected by the Senate on grounds of competence and judicial philosophy, but I believe the challenge on the basis of his sexual victimization of Anita Hill was quite unjustified, even though I’m sure it was all true. At the time I was ambivalent; like a lot of people, I would have been glad to see Thomas rejected for any reason. But that is no excuse for abandoning the private-public distinction: This sort of bad personal conduct is completely irrelevant to the occupation of a position of public trust, and if the press hadn’t made an issue of it, the Senate Judiciary Committee might have been able to ignore the rumors. There was no evidence that Thomas didn’t believe in the equal rights of women. It is true that Hill was his professional subordinate, but his essential fault was being personally crude and offensive: It was no more relevant than would have been a true charge of serious maltreatment from his ex-wife. (ibid.)

But surely someone might reasonably believe that the accusation against Thomas, if true, is relevant to our view of how Thomas would approach sexual harassment cases and issues of workplace rights. An established claim of spousal abuse likewise might be deemed relevant because someone suspects a connection between the abuser’s behavior and his perspective on violence toward women, the battered spouse defense, and so on.

Similarly, it is not a stretch to infer from the way an unfaithful husband comes to terms with his own behavior something about how he understands the value of marriage and the family in a healthy society. After learning about the spiritual life of an evangelical Christian, we might expect this person to be more likely to see the merits of faith-based initiatives than would the atheist. The individual who explains why she never used “soft” drugs or engaged in premarital sex may lead us to think she is more likely to overestimate, as some would see it, the dangers of both. And we may rightly credit longtime sufferers of
disease and disability with a special perspective on the pharmaceutical and insurance industries and problems of access. To be sure, any evidence we consider should be interpreted in light of other things we know before it affects our decisions as to whether to support a particular leader—as well as in what ways and to what extent. Equally important, it is not always the characteristic itself that is relevant so much as whether, and in what ways, we conclude that it has informed the leader’s perspective on the controversial issues of the day. In some cases, we might give the private matter great weight in our deliberations; in other cases, we might discount it altogether. Either way, the personal nature of some issues that leaders will encounter in the public policy arena makes it impossible to dismiss outright what are related, and therefore potentially relevant, private matters.

To be clear, I want to emphasize that it would be naïve to see a leader’s youthful experimentation with drugs, his sexual preferences, his health status, or his philandering as determinative of his approach to any particular issue. The fact that a leader tried marijuana in his college years does not mean that he or she will support its decriminalization; gays do not all think alike, nor do people with a chronic health condition or a disability; and those who cheat on their spouses will not all come down on one side of debates about the welfare of women and children. It would be equally naïve, however, to conclude that an individual’s personal behaviors, beliefs, and attitudes have no impact on the stances he might take on particular policy issues and the kind of decisions he might make once in office. When it comes to issues that have a deep personal impact on citizens, one thing that leaders have to go on is the effect that these issues have had in their own lives, as well as what they have come to think and feel, over time, about their own experiences and from awareness of the experiences of others. Given the uncertainty followers face, what they know about a leader’s background gives them potentially meaningful evidence in their more general efforts to make predictions about the behavior of people in power.

The Private-Public Divide

Here, it will not do simply to say that the current state of affairs reflects a problem with the public sphere itself—namely, that it includes issues that would be better left in the hands of private decision-makers and kept outside the political realm. I suspect that this core liberal commitment, which I too support, is in the background of Nagel’s argument. One way to understand the claim that issues such as justice, security, and the economy are “enough” to focus on is to read it as identifying not the most important issues but, rather, the only issues with which we should be collectively concerned—in other words, with what is rightly within the scope of state action in a liberal, democratic society (Nagel 1998). We would be better off both in terms of liberty and in terms of social utility if we saw what adults put in their own bodies, with whom they have consensual sex, and how they organize their families as matters for private deliberation and choice, not public debate and control. Yet neither my support for this basic view nor that of other liberals negates the facts, for example, that we enforce strict drug laws in the United States and that gay marriage is not legal in many states. The belief that drug use and choice of marriage partners should be considered private matters reflects neither the public consensus nor the law of the land. Another way to put this point is to say that there is substantive disagreement about the collective purposes we are trying to advance. Equally important, it is also too late for the government to refuse to take a stance on issues such as gay marriage when it is so heavily involved in the more general institution of marriage.

What many of us believe to be private behavior remains under attack in contemporary public life; as a result, a leader’s private life becomes relevant even for those who, in principle, draw a hard line between the private and the public.

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influences of a state-established religion, religious views regularly inform the way people think about public policy issues such as abortion, contraception, gay rights, prayer in school, etc. We should not expect our political leaders to be any different. Of course, a leader may promise to enforce the law regardless of a conflict with personally held commitments. And he or she may well keep his promise. But leaders do more than execute the law. They also play a critical role in determining what the law is when we are divided as to what it should be. It is not contradictory, then, for liberals to inquire about a leader’s religious beliefs and, potentially, to oppose him or her because what they discover inclines them to believe that, in his particular case, the personal will ultimately drive the political. The principled commitment to the idea that religion’s proper place is in the private sphere, not the public sphere, is what makes some personal facts about religious commitment relevant for political discussion.

In the current political climate, it is similarly difficult to see sexual orientation as a purely private matter for leaders. We have not yet come to terms with the place of homosexuality in private or public life. In the United States, the Supreme Court established legal protection for same-sex behavior not much more than a decade ago (Lawrence v. Texas 2003). Even more recently has “open” homosexuality been officially declared no longer to be a disqualifying characteristic for military service. And, at the time of this writing, we are right in the middle of a long, contentious battle over gay marriage. So, in the near future, liberals can expect issues of sexual orientation to remain in the public sphere. And rightly so, because of—not despite—what liberals might think about the ideal place of these issues in political life. A liberal may believe that the appropriate political stance to personal choices is indifference, but this remains a political goal to be achieved. An arguably personal characteristic is, for the time being at least, a potentially relevant characteristic in political life. The personal is political at least for those who wish further to advance what they see as progress towards greater freedom and less state control in sexual life. It will be relevant too for those who believe that society has gone far enough or is moving in the wrong direction. But the fact that many individuals endorse government oversight of sexual activity makes sexual orientation all the more relevant for those who are, in principle, strong advocates of privacy.

Conclusion
According to Thomas Nagel, there are only costs associated with making facts about a leader’s private life matters of public debate. First, the inclusion of facts about a leader’s sex life means that we risk losing some individuals well suited for leadership. Second, “This sort of bad personal conduct is completely irrelevant to the occupation of a position of public trust” and, as a consequence, interferes with our efforts to take on the real political issues of the day (Nagel 1998). I have argued that an appeal to the social value of privacy does not extend to the political sphere because it must assume what it proposes, namely, that facts about a leader’s private life are not relevant to a candidate’s fitness to serve. Without making this assumption, we cannot know whether the costs of losing qualified candidates are outweighed by the benefits of excluding unqualified candidates. An interest in the private lives of leaders, moreover, may promote the resolution or management of preexisting conflicts, not instigate new ones. Although it is true that the collective pursuit of common purposes at the level of social life generally is possible only if we set limits to what is introduced into the public sphere, facts about a leader’s private life may come within these limits in the narrower context of political choice.

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Notes:

1 See DeCew 2006; Matthews 2008; Nagel 1998; and Rachael 1975.

2 Nagel's article also grounds privacy in the value of autonomy and intimacy. For Nagel, the individual, relational, and social values of privacy are linked, especially the individual and the social.

3 Daniels has since faced complaints related to his position as president of Purdue University.

4 Rachael points to a similar problem in investigations of applications for credit.

5 For an excellent treatment of relevance, see Schauer 2000.

6 In some cases, as Jessica Flanagan has pointed out to me, the perspective might be seen as constituting a kind of bias, in which case it would be a negative, not a positive, consideration in our deliberations.

7 Former Virginia governor Tim Kaine has expressed his moral opposition to the death penalty along with a commitment to “enforce the law.” See, for example, Markon 2009.

8 Notice that, under the policy of “Don’t Ask, Don’t Tell,” privacy was mandated in support of illiberal ends.

Sources:


