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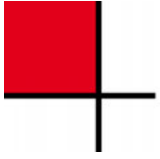
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Immunity from the image: The right to privacy as an antidote to anonymous modernity

Daniël de Zeeuw

abstract

Being unidentifiable and untraceable to state or corporate apparatuses of surveillance and control today has become almost synonymous with being anonymous. It is in this capacity that anonymity is often understood as instrumental and conducive to citizens' personal privacy vis-à-vis said apparatuses. Yet there is another sense to anonymity less immediately aligned with or intelligible within these privacy-centric narratives. In the motto that epitomizes the liberatory role attributed to online anonymity in early net culture ('On the Internet, nobody knows you're a dog'), anonymity designates a particular mode of sociality and culture that is impersonal or even anti-personal, ephemeral, collective, authorless and in that sense 'nameless' and 'faceless'. Today, imageboards like 4chan continue to cultivate and embrace anonymity in this sense, as a mediatic *condition post-humaine*. The article aims to show that these forms of anti- and impersonal media presumption have their roots in a more encompassing tradition of popular mass media culture, *against* which the right to privacy was originally asserted. As a value, privacy is linked to class-specific anxieties over the increasingly anonymous and impersonal forces of mass modernity and its new media publics, whose profane curiosity desired to 'bring things closer' by means of their technological reproduction. The emergent mass culture threatened dominant bourgeois values of personal autonomy and selfhood historically and culturally implied in the idea of a right to privacy. The resulting understanding of anonymity and its relation to privacy suggests an alternative perspective on what is at stake in the politics of online anonymity today.

Introduction

'On the Internet, nobody knows you're a dog'. This caption to a famous cartoon by Peter Steiner published in *The New Yorker* in 1993 epitomizes the positive role attributed to anonymity in early net culture. But since then much has changed.

With the rise of mass surveillance, big data analytics and a booming platform economy, the Internet, rather than fostering anonymity, is said to contribute to its demise (Froomkin, 2015). Moving toward an Internet of things as the backbone of a society of control, where every interaction is instantly identified, tracked, mined and so rendered exploitable and manipulable by corporate and state actors that themselves remain in the dark, Steiner's cartoon no longer rings true. Confronted with the growing precarity of online anonymity and its negative effects on privacy, Steiner's dogs may in retrospect come to nostalgically mark a relic from a blissful past in which online anonymity – and thereby privacy – was still possible.

The last decades have shown that online anonymity is indeed no longer (or perhaps never was) given, but instead something that needs to be constantly created and updated, and with uncertain returns, if any at all. In line with this dominant narrative, societal actors concerned with the withering of online anonymity generally situate it in a liberal-democratic rights problematic which revolves around questions of personal privacy and free speech. A recent UN report claims that 'Encryption and anonymity, today's leading vehicles for online security, provide individuals with a means to protect their privacy' as well as 'exercise the rights to freedom of opinion and expression' (UN General Assembly, 2015: 3). Various apps (Signal) or services (Tor) claim to improve their users' privacy by providing *anonymous* means of communication. Finally, following the post-Snowden and WikiLeaks rise in consumer awareness, tech and social media giants like Apple and Facebook have also become more attuned to new privacy needs, by offering encryption for their devices (iPhone) and apps (WhatsApp), or by allowing Tor-access to its platform (Facebook, since 2014).

These examples serve to sketch in very broad strokes the context in which the language of online anonymity is presently spoken, and in which the terms 'anonymous' and 'anonymity' acquire their particular meaning and political legibility, as an instrument and stake in citizens' battle for privacy and free speech against governments and big tech. Yet the kind of online anonymity Steiner's cartoon suggests can also be read in a different key, namely as referring to the various modes of impersonal sociality and anonymous media prosumption that early net culture harboured. Rather than exclusively or even primarily geared towards individual and personal privacy concerns, the way the cartoon mockingly celebrates online anonymity refers to the joy and thrill of engaging in ephemeral encounters with unknown others, of momentarily suspending one's 'real' life in dissimulative role-playing, and of losing oneself in a proliferation of digital masks on forums and chatrooms, or in virtual environments and multiplayer games. Despite the general trend towards social media platforms like Facebook, where most content is organised around personalised timelines and friend-communities, imageboard repositories like 4chan (www.4chan.org) continue to affirmatively

cultivate anonymity in Steiner's sense (Bernstein et al., 2011). On these imageboards, masquerade forms 'an integral part of social interaction' in which 'suspicion, pranking, and unreality are pervasive', issuing in the specific understanding of 'anonymity as culture' (for this concept see Auerbach, 2012: online). These practices of online anonymity explore the ephemeral and multiple, pseudonymous, and collaborative forms of media presumption that the Internet uniquely enables. It is to this sensibility that 4chan's founder refers when he claimed – in mocking defiance of social media platforms like Facebook – that 'anonymity is authenticity' (Christopher 'moot' Poole, quoted in Bodle, 2013: online).¹

What these preliminary observations on two rather different ways to situate and interpret the meaning and value of online anonymity reveal, is simply that there *are* indeed these different dimensions to the question of online anonymity. The larger discourse or problematic by means of which we try and make sense of a cartoon such as Steiner's will largely determine what aspects of online anonymity stand out as meaningful or politically significant. This raises the question: where do these different aspects and interpretations of online anonymity overlap, and where do they come apart?

It seems to me that when anonymity is spoken of as instrumental or conducive to ensuring citizens' privacy, it is typically framed as an informatic condition or statistical measure of non-identifiability and non-traceability of digital communications or personal data. It is in this capacity that anonymity is thought to safeguard communication of a *personal* and *private* nature against intrusion by external parties operating 'off-stage' (e.g. the NSA or even your local Wi-Fi fraudster). Instead, in the case of Steiner's cartoon and imageboards like 4chan, anonymity refers to a social and cultural modality of mediatic interaction. Here anonymity is attributed to *impersonal* and *public* forms of online spectatorship and

1 4chan represents a particularly interesting case to think about different aspects and dimensions to online anonymity. For around 2006, contributors to its '/b/ Random' board came to understand and refer to themselves individually as 'anons' and collectively as 'Anonymous'. At this point, anonymity was no longer only implicitly lived as an infrastructural condition but explicitly recognised and cultivated as a collective mode of online existence, whose 'networked individuals' may at any moment morph into mischievous swarms. With the ludic appropriation of this collective pseudonym, these self-styled 'anons' emphasised not so much the ability to exercise control over one's own image or to restrict the circulation and use of images but the freedom to engage the modes of anonymous sociality and media presumption 4chan enables – an aspect that will be come highly relevant in the following sections, which discuss this type of anonymity's problematic relation to the idea of privacy.

media presumption, whose participants are anonymous and unknown to each other.

The following example clarifies this distinction: you can access Facebook via Tor and be relatively anonymous in the first ‘informatic’ sense, but not in the second, ‘socio-cultural’ sense, given the nature of Facebook as a platform, which is designed to facilitate personal interactions between known others in a sheltered community environment built around personalised time lines and verified ‘real names’. Instead, whereas 4chan does little to protect its users’ anonymity in the first sense (it is not using HTTPS and it logs its users’ IP-addresses) it *does* enable anonymity in the second sense, by allowing users to post and share images under any pseudonymous banner without registration, and by organising content in comprehensive public threads to which anyone can contribute, but which are quickly deleted once contribution to them fades. So although it is true that anonymity in the first sense typically helps to establish or maintain anonymity in the second sense, just as, conversely, a culture of anonymity tends to foster values sympathetic to ‘actual’ informatic anonymity, the above example shows they can come apart in significant ways.

How are these different dimensions to online anonymity aligned with the notion of privacy? Whereas it is only natural to link privacy and the first, informatic sense of anonymity, in this article I argue that anonymity in the second sense – as an impersonal mode of sociality and culture cultivated on imageboards like 4chan – is more problematic from the perspective of privacy as itself representative of an historically and class specific, socio-cultural ideal. Returning to the moment where a right to privacy was first explicitly formulated in the context of *mass media* related issues, more specifically the rise of so-called ‘yellow journalism’ and its use of new reproductive technologies like photography, the first section reconstructs how privacy as a value arose from anxieties over the increasingly anonymous and impersonal forces of modern life and its new mass media, whose new mass publics transgressed established cultural codes and social privileges.

The second section expands on this reconstruction through the eyes of the generation of ‘Weimar’ critical theorists and artists like Walter Benjamin, Siegfried Kracauer and Bertolt Brecht, who were among the first to perceive and critically contemplate the growing influence and pressure of ‘the masses’ and new media technologies on prevailing social divisions and cultural paradigms. The mass-cultural logic that manifested itself through the new publics’ profane curiosity to bring things closer by way of their technological reproduction, Benjamin claimed, harboured an enormous culturally destructive potential, and suggested new, potentially emancipatory forms of collectivity and practice, anticipating what Oskar Negt and Alexander Kluge (1993 [1972]) later theorised as the ‘blocked’ elements

of a 'proletarian public sphere'. Using these writers' critical insights on the profane, plebeian thrust of mass culture, it becomes clear that from the end of the 19th century onward, the former slowly eroded and forced into crisis the *auratic* root of the person and its immunity. It is this crisis in the context of which anxieties over personal privacy were first voiced, and which still resonate in current understandings of privacy as control and ownership over one's personal information. Despite many important differences between Warren and Brandeis' historical conjuncture and the way they argue for a right to privacy, and ours, the *longue durée* problematic of mass culture and the resulting crisis of autonomous personhood nevertheless connects their present to our own.

Immunising the person against an epidemic of 'ruthless publicity': Reconstructing the societal problematic at the core of Warren and Brandeis' 'The right to privacy'

There are not many concepts that have been subjected to so much critical scrutiny as privacy, even *within* the liberal-bourgeois legal traditions whence it came. Communitarian and socialist critiques typically reject privacy's possessive-individualist premises; whereas feminist critiques focus on its historical function in reproducing and sanctioning a patriarchal organisation of the domestic sphere.² These critiques have led some to abandon it in search of less tainted concepts. More frequently however, a transformed idea of privacy that salvages the criticised aspects is proposed, implying that the relation between these aspects and the concept itself is ultimately contingent. Consequently, privacy is spoken of in many ways today. Brunton and Nissenbaum note that 'the house of privacy has many rooms' and that within different uses of the term 'are divergent concepts' (2015: 45). Static notions of privacy construe it as the state of being private and the right to privacy as each person's right to be *let* or even *left* alone, to live undisturbed and in absolute independence from others. Instead, more dynamic, control-oriented or social accounts take privacy to refer to the ability to manage access to one's personal sphere across different public/private registers (Altman in Kerr and Steeves, 2009: 206). The fact that there is such a plurality of different privacy concepts seems to preclude any one criticism of 'privacy in general'. Yet despite

2 In response, many privacy scholars argue that privacy is not primarily concerned with keeping one's personal, social or professional life private or hidden from others *per se*, but rather with the ability to know, negotiate, control and consent to the terms and conditions under which social and communicative interaction takes place, even in places that are ostensibly public or 'social'. Despite persistent associations with privacy and the private sphere, which often take an individual's autonomy to be *a priori* given, there is such a thing as 'privacy in public' (Nissenbaum, 2010) as well as an understanding of privacy as anchored in social and communicative interaction, rather than in the *absence* thereof.

crucial differences and historical shifts in emphasis on different aspects of privacy, in *Laws of image: Privacy and publicity in America* Samantha Barbas locates as one of the fundamental *continuities* at the core of most privacy concepts the importance of ‘the exercise of autonomy and control over the self’ (2015: 33). Taking this continuity as its premise, my approach differs from the above-mentioned critiques of privacy in its specific angle namely that of the rise of a popular, mass media culture, and the alternative understanding of anonymity as a social and mediatic condition implied therein.

Regarding the relation between privacy and anonymity, Alan Westin – former professor of public law at Columbia and author of the influential book *Privacy and freedom* – listed urban anonymity and anonymity of publication as one of four distinct types of privacy, the other three being solitude, intimacy, and reserve. Solitude, which refers to the state of each individual ‘freed from the observations of others’, is ‘the most complete state of privacy that individuals can achieve’ (Westin, 2006 [1967]: 36-37). Intimacy refers to forms of ‘corporate seclusion’, small social units of personally related people like family, friends or colleagues. Finally, the term ‘reserve’ seems inspired by Georg Simmel’s sociological observations on the transformations of mental life in the city, where reserve and indifference designate the behavioural attitudes of discretion and mental distance that respects the personal demands and psychic requirements of interactional partners under metropolitan conditions.

Subsuming such a broad range of different phenomena under the single rubric of privacy, raises the question: what allows these four phenomena to be categorised in this way? What do they have in common such that they can be understood as four separate instances of privacy? The answer to this question must be sought, I think, in a certain expansion or naturalisation of privacy that transcends the class-specific character of its original historical context of enunciation. As such it implies both a *dehistoricisation* and a *depoliticisation* of the socio-cultural conditions by which privacy as a value, ideal and specific right came to be, as a moral stake and legal instrument in deciding the direction and resolution of various societal transformations and frictions present at the time. By contrast, the following sections situate the right to privacy in the context that gave rise to it, namely the emergence of a mass society and its new forms of mass publicness, which allowed new publics to bring into the formerly privileged spheres of cultural representation new experiences, tastes, styles, affinities, and interests not necessarily aligned with the ruling cultural and moral paradigms.

Westin’s categorisation provides a clear example of a more general tendency to understand the value of ‘anonymity in public space and of publication’ in terms of privacy. Expanding the scope of application and relevance of privacy even further,

Westin claims that while many people believe that '[Man's] desire for privacy is distinctively human', it can in fact already be found as a primal need in less developed animal species (1984 [1967]: 56). This innate animal and human desire for privacy manifests itself in evolutionary terms as a 'tendency toward territoriality, in which an organism lays private claim to an area of land, water, or air and defends it against intrusion by members of its own species' (56). Such a founding of privacy in our 'animal natures' is the most extreme but – from its own perspective – logical end point of its understanding of privacy, which draws and collapses all possible, highly diverse and often incommensurable states of privateness and publicness into its concept.

Historicising Westin's categorisation, we can concede that personal and corporate seclusion clearly fit the label 'privacy' insofar as both originate in the private/public sphere divisions underlying liberal-bourgeois traditions of imagining and legally codifying social space. Through a series of internal spatial codifications, the private dwelling provides to each family member a measure of personal solitude vis-à-vis the relatively more public living quarters. This kind of individual solitude is deemed essential to the development of certain capacities of psychic interiority conducive to personal autonomy, understood as a kind of 'mental privacy'. Together with familial seclusion, solitude is constitutively related to what it excludes: the public sphere as well as the world of private property and the market, as reconstructed by Habermas (1991), Rorty (2009) and others: 'the public sphere emerges in private, and it emerges via a particular mode of subjectivization. Indeed, that there was a domain of privacy anchored the possibility of a public precisely insofar as it guaranteed this subjectivization' (Dean, 2002: 145). The rights of the person are thus relatively defined to each domain. Instead, the uncontrolled, unsanctioned mixture or passage between realms is understood as a permanent danger to social order. Yet it is not that their separation should be made absolute: what is at stake is a social pragmatics of boundary management in a way properly attuned to the particular forms of life it thereby sanctions.

It is with regard to 'urban anonymity and anonymity of publication' that Westin's expansive and naturalising conception of privacy proves to be more problematic. Tracing this naturalisation in reverse, the present article always links back the idea of a right to privacy to the specific societal problematic in which it originates. The point here is not that anonymity cannot be legitimately understood in the way Westin suggests, but precisely that it *can* be so understood, that applying *this* rather than *that* hermeneutic frame or ideological template *determines what is at stake in a particular situation*, implying that any given situation is fundamentally open to contingent and competing determinations. This conception of how discourse works and influences how and what we perceive as objective and significant in a situation, is informed by the observation that discourse is always 'penetrated by a

system of values inseparable from living practice and class struggle' (Bakhtin, 1984: 471), which is to say simply that 'our utterances necessarily reflect systemic social contradictions, the social location of particular speakers, and the forms of material and rhetorical power that regulate the relevant speech genres' (Gardiner, 2004: 36). Westin's categorisation displaces and obscures the historical problematic of mass society in which the idea of a right to privacy is rooted, replacing it with abstract relations between individual persons possessing an *a priori*, innate need for privacy. Doing so he transcends the multilayered, conflictual, class-cultural realities to which privacy as an ideal responded, and in which it intervened. At the end point of this displacement, it becomes possible to construct true statements about privacy as an undeniable human condition relevant to almost all aspects of life, including urban anonymity, as Westin indeed proceeds to do.

In order to understand why this is problematic, we need to return to the original formulation of the right to privacy at the end of the nineteenth century, by Samuel Warren and Louis Brandeis. In what is now recognised as one of the most influential law articles ever published, they propose to ground the right to privacy in the 'immunity of the person' (Warren and Brandeis, 1984 [1890]: 83). The *rationale* behind this particular approach is that they hope to establish such a right independent of already existing (intellectual) property and copyright laws (*ibid.*: 79-81) as well as available slander and libel laws (*ibid.*: 77-78; Post, 1991; Barbas, 2015; The Harvard Law Review Association, 1981). The right to privacy ideally encompasses the whole of a person's bodily integrity, feelings, thoughts and peace of mind, his or her dignity as a *person*. Doing so, Warren and Brandeis rely on the concept of 'immunity' as the legal and political halo that surrounds the person and protects it from outside intrusions that may impede upon its autonomy (Blackstone, 1899: 223). In his treatise on torts to which Warren and Brandeis refer, justice Thomas M. Cooley defines the right to one's person in terms of privacy as 'a right of complete immunity: to be let alone' (Cooley, 1880: 29). For the American sociologist Edward Shils as well, 'Intrusions on privacy are baneful because they interfere with an individual in his disposition of what belongs to him. The "social space" around an individual, the recollection of his past, his conversation, his body and its image, all belong to him' (1966: 306).

For Warren and Brandeis, however, a right to privacy deals with the somewhat narrower issue of control over one's reputation, 'the legal right to control one's public image' (Barbas, 2015: 26). This problem of control over one's image first becomes urgent when that image can be splintered and circulated in various new media networks, reaching new publics in a way that is beyond that person's control or consent. Theirs was an attempt to find a 'remedy for the unauthorized circulation of portraits of private persons' (Warren and Brandeis, 1984 [1890]: 193,

195). So rather than geared to the already established and more encompassing right to a private or personal sphere, the specific and novel societal problematic that propelled Warren and Brandeis' proposal was the emergence of new forms of mass publicity and popular media consumption: the proliferation of illustrated magazines filled with gossip and 'fake news' that catered to the ever greater and relentless curiosity of an expanded group of readers from all – but increasingly also the lower – classes (Schoeman, 1984: 203). Added to this was the growing availability of cameras and the means of reproducing and disseminating images in ever wider and less controllable circuits of private and public circulation, multiplying the possibilities for unwarranted exchange of personal information beyond the grasp of any one person (Whyte, 2009: 102).

Warren and Brandeis speak of an epidemic of 'ruthless publicity' (1984 [1890]: 214) caused by 'a media environment in which otherwise proper portraits [...] circulate in ways that countermand the cultural ideal of individual self-ownership' (Osucha, 2009: 76). Such publicity represents the increasing mixture and confusion of different class forms of life that before remained separate, and that by the end of the nineteenth century come together in the new mass public spheres: 'For Warren and Brandeis, the institution of the press symbolized the impersonal mass culture that threatened preexisting social institutions that, in turn, enforced cultural values' so that 'privacy represented the person's freedom from the undistilled attention of the masses through the media' (Bezanson, 1992: 1138). As such, the endangered 'sacred privacy of domestic life' entails much more than questions of ownership: it concerns a way of life and the world view implied therein, as well as a mode of subjectivation and its institutions. In this the right to privacy 'looks back to a period before mass society and its information technologies that threatened to burst the bubble of the sheltered life of the upper classes' (Gaines, 1991) and represents 'a record of legitimation of a bourgeois view of life: the ultimate generalized privilege, however abstract in practice, or seclusion and protection from others (the public)' (Williams, 1976: 243).

The following example serves to show how, even before Warren and Brandeis, 19th century criticasters of mass society employed the language of anonymity and impersonality to describe and motivate their distaste for the popular press and its new publics. In *The present age* (1962 [1846]) Kierkegaard bemoans what he calls the *Phantom Public* as a 'monstrous abstraction' driven by what he deems the two main 'powers of impersonality': the press and anonymity (Dreyfus, 2004). The modern-day author, he argues, 'is often only an x, even when his name is signed, something quite impersonal, which addresses itself abstractly, by the aid of printing, to thousands and thousands, while remaining itself unseen and unknown, living a life as hidden, as anonymous, as it is possible for a life to be' (Kierkegaard, 1967: entry #3219). Insofar as the publics Kierkegaard criticises

because of their impersonal, inauthentic and irresponsible character, resemble those against which Warren and Brandeis aim to formulate their right to privacy, these observations capture precisely in what respects the relation between privacy and these kinds of anonymity is more problematic than intuitively apparent.

The anxieties of and over the person swallowed up and stumped upon in the relentless massification of life and its reproductive technologies sketched by the above authors becomes even more pertinent when we reflect on the specific problem of *images of persons* circulated in the press. On the opening pages of *Crowds and power*, Elias Canetti claimed that 'There is nothing that man fears more than the touch of the unknown', and that in fact 'All the distances which men create round themselves are dictated by this fear': the repulsion, panic and fear of being touched, which 'never leaves a man when he has once established the boundaries of his personality' (1981 [1960]: 15). The fear of being touched by strangers and the formulation of a right to privacy are connected, if only by the terminology used. The gendered metaphor often used to highlight the importance of privacy is that of an innocent and vulnerable woman's body or face violated by a stranger's gaze or touch. A few months after the publication of 'The Right to Privacy', the U.S. supreme court proclaimed, in a case involving the physical examination of a woman (Clara Botsford) for insurance purposes, that 'to compel any one, and especially a woman, to lay bare the body, or to submit it to the touch of a stranger, without lawful authority, is an indignity, an assault, and a trespass' (in Smith, 2000: 133). Warren and Brandeis make use of similarly gendered examples to make their case.

It is in the image of a violation of intimate female parts by a stranger that an important tension between the concept of anonymity and privacy is brought to light. Whereas in the late 19th and early 20th century privacy refers to the enclosed private space of both a community of letters, familial intimacy and individual seclusion, anonymity in the sociological literature of the same period refers to the indifferent and contingent co-presence of strangers in urban-industrial environments. To their benefit, Warren and Brandeis did *not* understand privacy to include anonymity in the sociological sense at all. In a state of privacy, family and friends are the very opposite of anonymous to each other. Neither is the secluded individual anonymous to himself, nor for that matter are they anonymous to others outside of the domestic sphere. These relationships are persistent and personal, rather than ephemeral and impersonal, based on mutual trust and shared social codes, rather than suspicion and indifference. In this context, it makes no sense to speak of anonymity as conducive to privacy, as these two concepts belong to mutually exclusive socio-cultural registers.

On the contrary, it is precisely the kinds of anonymous, mass publicness with which Warren and Brandeis take issue, fearing an inversion of ‘the relative importance of things’ by the commercial exploitation of gossip by and to the vicious and the idle (1984 [1890]: 77). In this the curse of ‘ruthless publicity’ signals not merely a spatial but a social and political crossing of boundaries, making for a kind of general societal pollution whose violence lies in its contagious character. As the emergence of privacy as the right to be let alone is thus rooted in an experience of intrusion by anonymous strangers (the curious gaze of the mass public enabled by new visual technologies of reproduction), to confuse the personal privacy of the home with the impersonal anonymity of the street by subsuming them under one overarching concept of privacy, as Westin and other privacy theorists do, erases this important tension between them. On the basis of this insight, the next section takes a closer look at the specific, mass-cultural media logic of ‘curiosity’ that triggered the idea of a right to privacy by Warren and Brandeis.

‘To detonate a prison world’: The class-cultural dialectic between mass curiosity and privacy

Contributing to public debates on the nefarious effects of the popular ‘yellow press’, Warren and Brandeis sided with the journalist E.L. Godkin’s claim that ‘the chief enemy of privacy in modern life is *that interest in other people and their affairs known as curiosity*’ (Godkin, 1890: 66, emphasis added). According to Warren and Brandeis, privacy legislation is needed because ‘the press [and by implication the mass publics it caters to] is overstepping in every direction the obvious bounds of propriety and decency. Gossip is no longer the resource of the idle and the vicious, but has become a trade which is pursued with industry as well as effrontery’ (Warren and Brandeis, 1984 [1890]: 76). In the very last sentence of the article, hinting at the *fait accompli* that is the legal protection against unwarranted government intrusion, they comment: ‘Shall the courts thus close the front entrance to constituted authority, and open wide the back door to idle or prurient curiosity?’ (*ibid.*: 90).³

The popular press brought previously excluded subjects into the public sphere and its means of representation, as a result of which the public sphere was expanded, diversified, and structurally transformed (even when this apparent democratisation was bought at the price of the further commercialisation and

3 Gajda (2008) argues that what Samuel Warren perceived as hurtful ‘gossip-mongering’ about his family’s private life in the press was in fact the central motif for writing ‘The right to privacy’.

commodification of culture). But as Shils in the aforementioned article also suggests, rather than a nuisance *per se*, for some of the lower classes ‘awareness about the doings of one’s neighbors, the gratification of impulses of curiosity about and malice toward them, were perhaps among the main pleasures available’ (1966: 290). Likewise, the following commentator observes that ‘Curiosity, fascination, repugnance, fear, sympathy, greed, hostility, love, hate and the thousand-and-one other conflicting emotions which affect people living in close association with one another – especially people of different races, creeds, nationalities, and economic levels – created a desire to know more and more about the intimate details of the lives, the actions, the habits, the customs, the thoughts, and the activities of those about them’ (O’Connor quoted in Pember, 1972: 8).

These observations are important not only because they testify to the larger conjuncture from which privacy concerns arose, but also because they imply that such concerns were not equally or homogeneously shared by everyone, revealing their class-specificity. Once acknowledged, curiosity appears in a different light, namely in that of a class-politics of anonymous spectatorship and the social pleasures of gossip that created a common world, in a way that temporarily suspended the desocialised, atomised and reified relations that prevailed under industrial labour and urban living conditions. In this the gratification of the masses’ curiosity perhaps constituted a kind of symbolic revenge, a returning of the gaze that was cast upon them daily by the disciplinary apparatuses that controlled the streets and the factories. The pleasure of peeping into the private lives of the better-off must have conferred a sense of power, a power of looking accorded to those who were normally at the other end of the gaze. Doing so, they exploited and enjoyed the anonymity that new forms of spectatorship provided to attain the asymmetrical position of the voyeur, which sees but itself remains unseen.⁴

The critique of ‘idle or prurient’ curiosity that motivates Warren and Brandeis’s proposal for a right to privacy has a longstanding moral-philosophical and theological tradition. After Plutarch, Augustine chastises curiosity as the pathological mark of an ‘inordinate desire for knowledge derived from sense experience’ that signals the unregulated intellectual appetite for things other than

4 The mass publics to which these ‘invasive’ and ‘immoral’ forms of curiosity were attributed are probably under-represented in the literature through which we view the era: we only come to know about their existence through the writings of those that cry out against them. In this they resemble the lowly, insignificant lives of Foucault’s ‘infamous men’: those nobodies, those opaque anonymous masses who are incited to speak by being incessantly spoken of, and whose disparate traces, meticulously recorded, fill the administrative, psychiatric and police cabinets of the preceding centuries.

God (Fitzgerald, 1999: 259-261). Curiosity – the ‘lust of the eyes’, or *concupiscentia oculorem* – is a disease of the mind that affects both plebs and scientist, under whose spell men desire nothing but to know (Augustine, 2006 [AD 397-400]: 10.V). Among the most influential critiques of curiosity in 20th century philosophy is Heidegger’s *Being and time*, where it designates one of the main modalities of *Das Man* (the impersonal ‘They’ or anonymous ‘Anyone-self’) – the collective pseudo-subject that inhabits the diffuse, inauthentic being-in-the-world of everyday life. Together with idle talk or ‘chatter’, for Heidegger curiosity promotes ‘an indifferent intelligibility for which nothing is closed off any longer’ (2010 [1927]: 163) and through which ‘every mystery loses its power’ (*ibid.*: 123).⁵

In his discussion of Heidegger’s critique of the curiosity of *Das Man*, Paolo Virno shows that curiosity and mechanical reproduction together indeed ‘strive to abolish distances, to place everything within hand’s reach (or better, within viewing distance)’ (2004: 92). Contrary to Heidegger, however, Virno sees in curiosity and idle talk an ‘authentic’ mode of sociality and communication of the the masses (or ‘multitude’ as he calls it). Doing so he links Heidegger’s notion of curiosity to Benjamin’s observation in his famous *The work of art in the age of mechanical reproduction*, that ‘Every day the urge grows stronger to get hold of an object at very close range in an image [*Bild*], or, better, in a facsimile [*Abbild*], a reproduction’ (Benjamin, 2008 [1939]: 23). Rather than designating the ‘fallen’ and inauthentic life of the impersonal Anyone-self, for both Virno and Benjamin mass media and new media technologies like photography and film bear witness to a positive ‘desire of the present-day masses to “get closer” to things, and their equally passionate concern for overcoming each thing’s uniqueness by assimilating it as a reproduction’ (23).⁶

These observations are at the heart of Benjamin’s theory of mass modernity as entailing the ‘withering’ of the aura, where the aura refers to ‘a strange tissue of space and time: the unique appearance of a distance, however near it may be’

5 On the relation between St. Augustine’s *Confessions* and Heidegger’s *Being and time*, see Coyne, 2015.

6 The ambivalence and lack of ‘normative clarity’ of Benjamin’s remarks on these anti-auratic tendencies of mass society has always divided commentators. Some quote the above passage to argue for Benjamin’s ultimately affirmative stance to this process, while others find passages seemingly incompatible with such a stance, e.g. those in which Benjamin adopts a more conventional Marxist critique of the culture industry. The reasons for this ambivalence must, I think, be sought in the historical circumstances that, first, the masses’ desire to bring things closer is always already mediated by capital and appears in the inherently exploitative form of the commodity and its ‘fetishism’; and second, this process is structurally open to its regressive, fascist appropriation and channeling, as Benjamin himself witnessed up close and suffered the consequences from.

(2008 [1939]: 23). The concepts of uniqueness and distance that an emerging mass consumer culture – in tandem with new reproductive technologies – are in the process of eliminating, are also central to understand the person as an historical configuration of legal and subjective selfhood. The dignity and respect accorded persons is premised on an auratic separation and distancing from the profane world of things that surrounds it, including animal and human non-persons. Precisely this immunity of the person is compromised when it is made into a mass-circulated image.⁷

By projecting the human body in its ephemeral anonymity as merely one interchangeable *thing* or *image* among others, the auratic ‘ritual value’ that secures the distinction between person and thing collapses into the aesthetic ‘exhibition value’ that both immanently possess. Benjamin’s ironic commentary on a short opinion piece by literary critic Friedrich Burschell in *Die literarische Welt* (No 7, 1925) may help in understanding his position. In the piece, Burschell bemoans a recent magazine cover of the then highly popular *Berliner Illustrierte Zeitung* for showing a miniature photographic portrait in remembrance of esteemed German writer Jean Paul right alongside a series of images depicting, among other things, ‘the children of Thomas Mann, the petty bourgeois hero of a dubious trial, two tarts all done up in feathers and furs, and two cats and a monkey’ (Benjamin, 1972 [1925]: 449). It is this leveling juxtaposition of disparate things normally perceived to be categorically distinct, which induces and motivates Burschell’s sentiment (which, Benjamin taunts, reflects an attitude that is ‘kleinbürgerlich’). Instead, Benjamin positively recommends the cover’s ‘higgledy-piggledy’ construction as among the best modern journalism has to offer. It is this reduction of the individual portrait and singular ‘authentic’ face of the person (especially a highly esteemed artist-personality like Jean Paul) to a mere part of a larger visual ensemble of printed matter whose proponents are judged by their exhibition rather than their cult value, that for Benjamin signals the illustrated magazine’s progressive, even emancipatory tendency. What would be more boring, he asks, referring to Burschell’s own cultural paradigm and aesthetic ideal, than a full-blown portrait of the artist on the cover? (Benjamin, 1972 [1925]: 449).

As to the photographic portrait, whose public mass circulation is at stake in Warren and Brandeis’ article on privacy, Benjamin observes that ‘for the last time the aura emanates from the early photographs in the fleeting expression of a human face [...] But as man withdraws from the photographic image, the exhibition value for the first time shows its superiority to the ritual value’ (2008 [1939]: 27; Costello, 2005). Rather than the melancholic and conservative attempt

7 For a genealogy of the ‘dispositif of the person’ and its relation to the logic of immunity, see Esposito, 2011; 2012.

to save the aura of the human face from its eclipse in the reproducible image, for Benjamin Eugène Atget's photographs of deserted city streets from which all human personality and community has been erased, offer a more realistic picture of the inhuman present. In this he seems to follow Bertolt Brecht's advice not to 'start from the good old things but the bad new ones'. The personal, honorary portrait plays an important role here as it is the singular *face* that, together with the name, functions as the central symbol of personhood that becomes grotesquely 'defaced' by its mechanical reproduction and circulation. This defence of the 'face' and the 'name' as harbouring the person's reputation, as in the expressions 'saving one's face' or 'defending one's good name', clearly ties into Warren and Brandeis' attempt to protect one's 'image' against the curious masses.

Along similar lines as Benjamin, Kracauer (1997 [1960]) approached photography and film in terms of a 'redemption of physical reality' that inherently challenges previous value and object hierarchies, including the categorical distinction between persons and things, exposing all equally to a collective curiosity geared towards their public exhibition and common use-value. Early film 'treated the human figure as only one among a variety of objects or sights, a jumble of animals, children and adults, of things, crowds, and streets' (Hansen, 1993: 448). Like the magazine cover Benjamin discusses, the cinematic medium is radically egalitarian and inclusive: the filmic gaze is indifferent to the status of the object insofar as this status transcends the object's materiality, (re)presenting any one object in the dimension shared by animals, marionettes and persons alike.

Only a few years earlier, in a short article called 'Anon is Dead' the American critic Henry Seidel Canby analyses what he considers the 'almost hysterical attempt to escape from the deadly anonymity of modern life [by] the general man who feels his personality sinking lower and lower into a whirl of indistinguishable atoms to be lost in a mass civilization' (1926: 80). For Benjamin, Kracauer and others, however, this loss is not an oppressive, reifying or alienating process per se. Rather than 'saving' the person from the mass that engulfs it, in the very precise and beautiful statement by Brecht, 'man does not become man again by stepping forth from the masses but by sinking deeper into them' (1977: 69). Elsewhere, Brecht links this idea of individuation *through* rather than *despite* the mass (on which liberal-bourgeois notions of individuality are instead premised) to the '*Zertrümmerung der Person*' [the destruction or 'shattering' of the person]. In modern society '[The person] falls apart, he loses his breath. He turns into something else, he is nameless, he no longer has any face [...]' (Brecht, 1967: 60, see Jonsson, 2013).

Whereas in liberal-bourgeois ideas of personal autonomy this name- and facelessness can only appear negatively, for Brecht the destruction of the person

opens up to an inherently collective, ‘transpersonal’ realm pregnant of ever new modes of social, cultural and political individuation. Similarly, in his famous essay on the mass ornament Kracauer frames the Tiller girls as exemplary of the new, emancipatory forms of sociality and culture potentialised in mass modernity as a whole (1995 [1927]). A then popular form of entertainment, these girls move as one in a serial, repetitive and synchronous manner, locked arm in arm. In said essay, Kracauer finds that these girls form a kind of ‘anonymous figure’ in which the individual person (*das Vollindividuum*) dissolves into prepersonal bodily elements of a larger ensemble that never add up to anything remotely resembling an organic community. This figure’s very ‘mass’ character resides in this dissolution of both the unity of the individual person and the organic community, in a new social choreography of impersonal and (con)dividual elements that mirror modern labor and urban living conditions. What is left of the individual is ultimately only a ‘partial self’ (*das Teil-Ich*).

‘Wasted upon the many’: Mass media culture beyond the person?

This becoming anonymous – in the sense of being unrooted by the deterritorialising powers of modernity in which slowly but steadily, in Marx and Engels’ famous wording, ‘all that is solid melts into air’ and ‘all that is holy is profaned’ (1969 [1848]) – points to a liberation from premodern social formations and traditions, in a process Agamben calls ‘profanation’ (2007). The latter designates the emancipation of all bodies and values from previously established stratifications as they enter the sphere of incessant circulation and exchange. Taking up Kracauer’s theory of the mass ornament, Agamben states that ‘the commodification of the human body, while subjecting it to the iron laws of massification and exchange value, seemed at the same time to redeem the body from the stigma of ineffability that had marked it for millennia’ (1993: 48). Lyotard goes even further when he suggests that

the industrialized masses actually enjoyed the mad destruction of their organic body which was indeed imposed upon them, they enjoyed the decomposition of their personal identity, the identity that the peasant tradition had constructed for them, enjoyed the dissolutions of their families and villages, and enjoyed the new monstrous anonymity of the suburbs. (1993: 214)

Whereas in the modern political-philosophical tradition, persons are constituted in a relation of mutual recognition to a virtual centre of the one, capital-letter Person (e.g. State or God), the *carnivalesque* and materialist ‘chain of being’ of the urban and labouring masses is marked by a relation of bodily immanence to a temporality of anonymous becoming. Whereas ‘to exist as a person is to maintain all one’s parts and their properties under one’s own control’ (Lingis, 2001: 61), it

instead suggests a release of self in an endless proliferation of masks. Doing so it moves in a direction diametrically opposed to that of Augustine, when he attempts to gather and 'collect' himself out of 'that dispersed state in which my very being was torn asunder because I was turned away from You, the One, and wasted myself upon the many' (quoted in Coyne, 2015: 98).



Figure 1: James Ensor's *Self-portrait with masks*
(<https://www.wikiart.org/en/james-ensor/self-portrait-with-masks-1899>).

James Ensor's *Self-portrait with masks* (Fig. 1) may serve as an illustration of this dialectic between the masked mass and the authorial, personal self. In this self-portrait, a swarming crowd of grotesquely deformed and grimacing faces and carnival masks flood the pictorial frame from all sides, encroaching on the portrait of the artist classically positioned in the centre. In contrast to conventional bourgeois portraiture, in which the masked crowd is always already exorcised from the frame and its field of visibility, Ensor paradoxically includes this exclusion constitutive of individuality on the very pictorial stage where it is classically performed. The suggestion of a non-immunitary relation to the carnivalesque crowd is reinforced by the fact that, rather than threatened by it, Ensor seems quite at ease within it, as if temporarily overcoming what for Canetti marked any person's 'fear of being touched'. Yet by gazing directly and somewhat conspiratorially at the viewer, Ensor does in the end seem to want to shock us into a belated recognition of the artist's heroic ability to endure, defy and transcend the violently usurping crowd.

In the urban crowds Ensor often depicts as a grotesque masquerade, anonymity is rendered in its modern sociological sense as 'a defining attribute of urbanity' (Garber, 2000: 19) inherent to 'the being together of strangers' (Young, 1990: 237). Likewise, in *A World of strangers*, urban sociologist Lyn Lofland notes that 'To experience the city is, among many other things, to experience anonymity' (1973, ix).⁸ This understanding of anonymity as a structural aspect of urban forms of mass sociality can be transposed to the realm of popular media culture and new media technologies, as Benjamin and others suggest. From this perspective, contemporary practices of online anonymity on imageboards like 4chan and in Anonymous partake in the profane and post-auratic thrust of curiosity and its concomitant 'destruction of the person', in response to which Warren and Brandeis formulated their idea of a right to privacy. It is a more adequate grasp of this problematic and conflictual relation between privacy and such practices of collective anonymous media presumption that the current article aimed to establish, in a way that suggests a rethinking of the politics and aesthetics of online anonymity better attuned to its profane, mass-cultural media logic.

8 For an overview of how the terms 'anonymous' and 'anonymity' are used and transformed over time, see Ferry, 2002.

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