

2012: A pivotal year for privacy?

In the first of our year in review series, [Paul Bernal](#) reflects on 2012 and its implications for privacy and communication. He argues that 2012 could come to have been a pivotal year in the politics of privacy.



2012 has been a big year for privacy, in politics, in law and for the public, but it's still not clear whether it's been a good year or a bad year. Three very different – but all in their own ways crucial – aspects of privacy have come into focus during the year. There have been three investigations, three reports and three quite different outcomes. The third, however, has had – in a privacy sense at least – the most positive outcome. That outcome suggests that there is at least a possibility that 2012 could be a pivotal year for privacy: the year in which we began to really understand that privacy matters for all of us.

Three big privacy issues:

The first of the big issues coming to the fore is the use (more importantly, as far as many people are concerned, the misuse) of privacy law by the rich and powerful to manipulate or control the media. The use of 'super-injunctions' was treated, at least by the media, as a major affront to free speech – and in cases like that of Ryan Giggs, it had made not only newspaper headlines but also led to questions in Parliament and a major 'twitterstorm'. The result of this was the work of the Joint Parliamentary Committee on Privacy and Injunctions, which reported in March 2012.

The second issue was the invasion – often hideous invasion – of people's privacy by the press. The Leveson Inquiry, investigating all of this, started in 2011 but was rarely out of the news during 2012, right up to the issuance of the Leveson Report in November. The full ramifications of the report – of which more later – will not be known for a while.

The third – and perhaps the most important – of the issues is the growing temptation for the authorities to invade all of our privacy by monitoring our activities on the internet. In the UK, this debate has centred around the Draft Communications Data Bill, dubbed by many the 'snoopers' charter'. This emerged in the spring to the consternation of privacy activists – with the initial idea that it would be pushed through pretty much uncommented in time for the Olympics. That, though, was not to be – and the parliamentary committee set up to investigate it ended up producing a hugely damning report at the beginning of December.

Blood on our hands...

Privacy advocates are used to facing criticism – and these three issues have produced some classics. 'Privacy is a euphemism for censorship', Paul Staines (blogger Guido Fawkes) told the Committee on Privacy and Injunctions. 'Privacy is for paedos', former News of the World journalist Paul McMullan told the Leveson Inquiry.

Those criticisms, however, were tame stuff compared to what privacy advocates were accused of in late 2012, when Theresa May told us we effectively would have blood on our hands if we opposed the Communications Data Bill. "Anybody who is against this bill is putting politics before people's lives," she told the Sun.

Privacy is for the great and the good...

For much of the year, anyone following privacy might have thought that it was only an issue for celebrities. The Leveson Inquiry was treated to a veritable galaxy of stars from Hugh Grant and Sienna Miller to JK Rowling and Charlotte Church, as well as the biggest hitters in politics. Some of the most

notorious stories have concerned the Duchess of Cambridge – from the topless photos in France to the tragic hoax phone call to King Edward VII hospital. A more interesting privacy story in some ways was the revelation of the affair of David Petraeus, then Director of the CIA, though the effective hacking of one of his email services. For the US's top spy to be caught out this way was deeply embarrassing – but it was still a story about the 'great and the good', and the reception of the story was from most people's perspective a mixture of titillation and amusement.

...or is it for everyone?

In the end, however, privacy is not just for the great and the good, but for everyone. We all want privacy – we all need privacy – which is why, I suspect, the last of the three privacy issues of the year seems to have produced the most decisive result. The Communications Data Bill hit home to many people – far more than the proponents of the bill must have imagined. Submissions were made to the committee by the thousand, and the vast, vast majority were hugely negative. That has hit home – and seemingly produced a result, with even Downing Street accepting that they'll have to rethink it all.

The cynic in me tends to think that we won't have the same kind of result for the first two issues. The rich and powerful will always try to find ways to manipulate or control, whether by the use of defamation law or other methods – even the parliamentary committee seemed to accept that, producing a report that was a bit of a damp squib, without any serious recommendations other than tinkering at the edges. Whatever the ultimate impact of Leveson's report might be, it is likely to have a huge impact. Statutory regulation won't be the end of a free press, and a lack of it won't be the end of civilisation either. The press will continue to invade celebrities' privacy – and continue to behave badly in search of a story, no matter the details of the law.

What's more, for most people, the intrusive behaviour of the press doesn't really make much difference – and the litigious behaviour of celebrities, politicians and the über-wealthy is an annoyance at worst. We cared deeply about Molly Dowler – but it is still very hard for ordinary people to put themselves in the position of her family. Web-snooping, on the other hand, hits home to most of us. It's not, despite what people like Pauls McMullan and Staines might want to suggest, because we've got dirty secrets to hide, but because we don't think our ordinary lives are everyone else's business. Not the business of the press – and not the business of the authorities. In 2012, with the way that the Snoopers' Charter seems to have been beaten off, we began to make that clear, no matter how much Theresa May tried to scare us into submission.

It almost certainly won't be a final victory – plans like the Snoopers' Charter have been around for a while, and raise their ugly heads every so often. They will appear again, no doubt, after their proponents have licked their wounds. However, this win could be a start – and 2012 could end up having been a pivotal year for privacy. The year that the privacy of ordinary people began to be taken seriously. I hope so!

Note: This article gives the views of the author, and not the position of the British Politics and Policy blog, nor of the London School of Economics. Please read our [comments policy](#) before posting.

About the author

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