Public Figures, Private Lives

By Jean Bethke Elshtain

At the height of the Clinton-Lewinsky scandal, Hillary Rodham Clinton, having first declared the entire matter part of a "vast right-wing conspiracy" to discredit her husband and frustrate the will of the American people, later resorted to the "zone of privacy" argument as a way to deflect the force of the cascading series of revelations on the legitimacy and credibility of her husband's White House tenure. This is an argument that has immediate resonance with us. Our therapeutic culture has hammered home the notion of "zones" of this-or-that, including "privacy;" and the Supreme Court decades ago discovered a "right" to "privacy" lurking in the murky interstices of the United States Constitution as so many emanations, or "penumbra," in the words of Justice Douglas in the *Griswold v. Connecticut* case.

But we didn't need the Supreme Court to tell us that there are areas of life that are off-limits, under most if not all circumstances, to government control and intrusion. Notice that the concern is *government* control. At the time the Founding Fathers were going about their business no one could have imagined the range, scope, and reach of modern media, or the public's apparently insatiable "need" or even "right" to know. No one could have foreseen the "therapeutic" culture, in which our innermost needs and turbulations and the forms of their "acting out" have become grist for the public mill on daytime television. No one could have taken the measure of what the quest for equality in a civic sense would mean, over time, for the relations between men and women or in altered views of the nature of the family—including whether what goes on *inside* families should be open to *outside* scrutiny. No, rather, the progenitors of this republic were reflecting historically grounded worries about tyranny, as well as the prior existence of "public" and "private," or some version of the same, as categories of thought with long standing in the West.

But, as they say, that was then, this is now; and now whole areas of private life have been opened up to public scrutiny. The feminist movement has been one of the major forces pushing in this direction, given its slogan "the personal is political"—a problematic idea if taken neat, to be sure, and one that is unevenly enforced by leading feminist spokeswomen, as became stunningly clear during the Clinton fiasco. Feminist abandonment of principle depending on whose political ox is being gored aside, there were legitimate reasons to argue that much of what goes on within families is of public concern: whether spouses harm one another, for one thing; whether children are abused, for another. The difficulty comes in establishing criteria or thresholds for public intrusion.

Suppose that no one is being abused in the sense of being physically harmed. Suppose, further, that the principals involved, or at least one of them, is a public figure of some note. Is he or she "entitled" to a "zone of privacy" and, if so, how is this to be construed in light of the public's "need" or "right" to know certain things and the media's determination to uncover deed-doing of all sorts? (And that is the world we live in, whether we like it or not.) First, it is reasonable for public officials to place their underage children off-limits to media scrutiny as a general matter. But if a child has a brush with the law or is seriously injured; if a child is sent to a private school by a staunch defender of public schools—these are matters of legitimate public interest and concern.

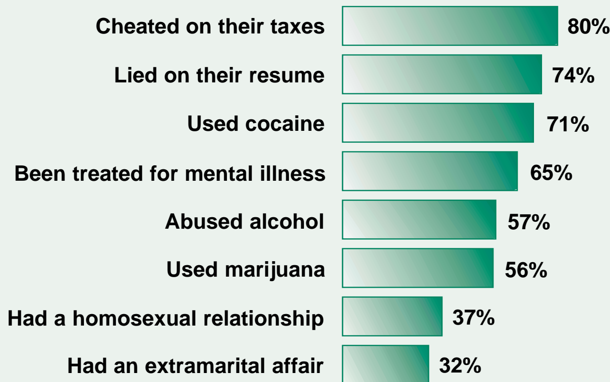
Second, it is unreasonable for public officials to assume an inviolate privacy in light of the cultural and technological transformations of the past forty years. We understand that there is *some* relationship between patterns of conduct in private and public life. The complexity lies in sorting it out and assessing its political significance. That a public official had an extramarital liaison at some past moment, for instance, is of little public import; and it is cheap voyeurism to "out" people, as happened when President Clinton's defenders unleashed James Carville who, in turn, unleashed pornographer Larry Flynt to promise dire revelations about Republicans straying from the marital bed. There is a difference between what might be called simple straying and, by contrast, a *pattern of private conduct* that involves the routine ill-use of women (if the perpetrator is a man) and puts the male officeholder in a compromised position, not only morally but legally and politically.

This leads to the third point: when a pattern of past and continuing conduct is uncovered that demonstrates beyond a shadow of doubt behavior of an obsessive, immature, and reckless sort (whether womanizing, gambling, excessive drinking, and so on) that, surely, is an issue of legitimate public concern. The person himself has crossed all sorts of lines and cannot hide behind a "right" to privacy, especially in cases where this private conduct has not only harmed others but has compromised his own ethical, political, and legal standing.

This still leaves open the matter of what an appropriate public remedy

Question: ...Do you think the public has the right to know whether an officeholder or candidate has ever...?

Those responding public has right to know



Note: Responses of registered voters.
Source: Survey by Opinion Dynamics for Fox News, May 10-11, 2000.

should be. But to argue that a continuing pattern of reckless conduct is on par with a discreet and perhaps long-ago affair is ludicrous in our assessment of public figures. We need to know who is sturdy and trustworthy *now*, not who, along with all of humanity, has sinned and fallen short in the past or, perhaps, is embroiled in the present but in a way that does not invite sustained public scrutiny and is not part of a larger pattern of troubled and troubling activity.

The irony in the Clinton affair was that those who had most strenuously argued that private concerns were of public moment and who had pushed for legislation (that President Clinton signed) that made the sexual history of an alleged sexual harasser fair game legally, beat a hasty retreat when the chickens came home to roost in their own coop. But that, too, is simply the way of the world at the moment, and anyone elected to public office—most especially Presidents of the United States—must reckon with this new reality, one that is unlikely to change anytime soon.

Where does all this lead? To a plea for fairness in the distribution of scrutiny and ire. A plea for restraint in "uncovering" private conduct unless it rises to a certain level of concern given a pervasive pattern of troubling behavior. A plea for the sorting out of rough criteria so that public officials have some sense of when they will run afoul of the media, political scrutiny, and the law. Under present circumstances I have a hunch that this is way too much to ask for, but perhaps, in a post-Clinton era, when our equilibrium is somewhat restored, we can move in this direction.

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