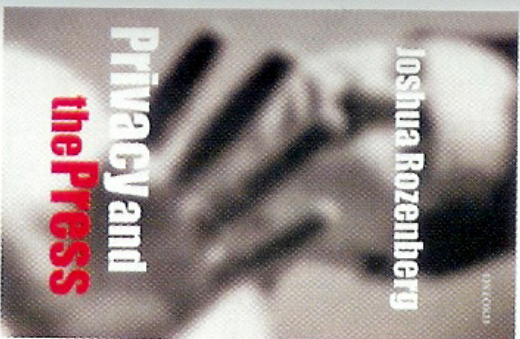


When the personal becomes public

Godfrey Hodgson on a valiant effort to clarify confusion in the law

Privacy and the Press
Joshua Rozenberg
OUP, £18.99



In 1990 Sir David Calcutt reported to the Home Secretary in favour of introducing a new tort of 'invasion of privacy'. The government, however, took no action. In 1997 the incoming Lord Chancellor, Lord Irvine, told the House of Lords that the law lords were 'pen-poised' to develop a right of privacy at common law, though he urged them to wait until the European convention on human rights had been digested. That code offers a tension between Article 8, which lays down that 'everyone has a right to respect for his private and family life', and Article 10, which establishes a right to freedom of expression. The judges' pens remain poised.

Until the European convention came into effect in 2000, the British courts did not acknowledge a law of privacy. Instead, privacy was protected, if at all, by a law of confidence. That dated back to a case brought by Prince Albert against a

naughty employee of an engraver who sold etchings of the royal family and its dogs. From time to time eminent judges have argued in lectures for a law of privacy. In the celebrated case brought by Michael Douglas and Catherine Zeta-Jones against a photographer who took unauthorised pictures of their wedding, Mr Justice Sedley even claimed that 'the law recognises and will protect a right of personal privacy'. But it does not. Or not yet. As Joshua Rozenberg's learned and entertaining survey of the whole field of media law shows, whether it does or does not is a question to which, in given circumstances, no media lawyer can give a confident answer.

Rozenberg (Wadham 1968), a former BBC legal correspondent, now law editor for the *Daily Telegraph*, guides his readers through the issues raised by such diverse litigants, both sinned against and

sinning, as the supermodel Naomi Campbell, and the footballer, known as A, who was reported by the *Daily Mirror* ('B plc') to have 'scored away from home' with ladies known as C and D. He unravels US First Amendment law and the conflicts between the European convention, upheld by Strasbourg, and the European Charter, the banner of Luxembourg.

This survey is valuable, as well as entertaining. It is the law's fault, not Rozenberg's, if it is not always clear. His conclusion is that, for all the sins of our news media, when it comes to striking a balance between the protection of privacy and the protection of the press, 'privacy good, free press better'.

Godfrey Hodgson (Magdalen 1952) is the former Director of the Reuter Foundation Programme at Green College and a television and newspaper journalist