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Book Review: The Walled Garden: Law and Privacy in Modern Society

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argument that the sexual policing of women is an integral part of the story of mass incarceration in the United States. It is recommended for academic law libraries.

Friedman, Lawrence M., and Joanna L. Grossman. *The Walled Garden: Law and Privacy in Modern Society*. Lanham, Md.: Rowman & Littlefield, 2022. 357p. \$120.00.

*Reviewed by Ariel Newman**

¶39 *The Walled Garden* discusses the elusive right to privacy and its relation to social advancements. In general, discussions about privacy tend to include examples of what constitutes an infringement, with common examples such as secret pictures and recordings. This book turns that framework on its head by examining what obligations and choices are necessary to preserve privacy, both individually and societally. Friedman and Grossman take readers on a journey from the Victorian era to the modern day, scrutinizing the many ways the concept of privacy has evolved with changes in societal standards, technology, and media.

¶40 The book is divided into three main parts. Part 1 sets *The Walled Garden* apart from other texts on the law of privacy, with its elaborate discussion of what the authors refer to as “mandatory privacy” (p.15)—what we have a responsibility to keep hidden. Unsurprisingly, many laws are in place to discourage people from showing their private bodily areas to the public. It is not the law, however, that is the ultimate enforcer but social norms. In instances where the law does not call for punishment—like public breastfeeding—social consequences often hinder what some consider undesirable behavior. Simply put, people must keep their private parts hidden because society says so.

¶41 The authors also pay close attention to how profanity and literary depictions of bodies have evolved with modern society. For example, at one point, the *Oxford English Dictionary* did not include entries for certain four-letter words that society deemed too vulgar. Now one can find a wide range of words in the dictionary commonly considered obscene. Readers can also find erotic novels at their local bookstore with content Victorian era authors never dreamed of writing so explicitly. Of course, despite all these changes, these topics still meet limitations. For example, parents continue to challenge books and sex education in public schools.

¶42 Part 2 focuses on the gray area of “elective privacy” (p.137)—the idea that individuals have the right to choose what to keep private or make public. Naturally, there are necessary consequences for those who disregard these choices and violate someone’s right to privacy—or, more aptly, someone’s right to choose privacy. In this gray area, as in many others, the law has not always kept up with rapidly changing technology. For example, a person may choose to take nude photographs of themselves to send to their lover; that choice does not grant their lover the freedom to release those photos to the public after an argument. Initially, revenge porn charges were dropped because this act did not violate existing state laws. To keep pace with changing technology, Congress and state legislatures needed to draft new laws dealing with this type of crime. In this part, the authors also address double lives adopted for a variety of reasons, from bigamy

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to fear of stigma. This part concludes with attention to an active choice to relinquish privacy. For many, surveillance to combat crime and terrorism is a welcome price citizens pay for comfort and safety. Edward Snowden's revelation that the U.S. government was collecting sensitive information about average citizens challenges that perspective as well as the broader concept of choice in privacy.

¶43 Part 3 describes the shift away from privacy and the impact media has on privacy law and social norms. This portion of the book focuses on the distinction between ordinary citizens and public figures, with the latter awarded much less privacy and anonymity in modern society. Specifically, the authors discuss how the media and celebrity culture has changed dramatically since the 19th century. For example, although Queen Victoria and Queen Elizabeth II are both very well known, the amount of privacy each enjoyed was very different. During Queen Victoria's reign, very few of her subjects had seen her or could recognize the sound of her voice; however, Queen Elizabeth II was frequently on television and in the public eye. Mass media has greatly influenced how society approaches the right to privacy, affording little to those considered celebrities and public figures.

¶44 The final chapter of this book is a poignant summary of recent erosions of the right to privacy. During the COVID-19 pandemic, government and private entities used personal health information to punish individuals for ignoring guidelines and exposing others to the virus. Social media and facial recognition software identified many participants in the Capitol riot on January 6, 2021. Employers terminate workers for complaining about their jobs on social media. Text messages, emails, videos, and more—no matter how many times you click “delete”—are eternal. Everywhere you look, technology and media are clashing with privacy and the right to be forgotten.

¶45 *The Walled Garden* is dense but captivating. I found this book remarkably informative and accessible even to readers without a strong background in privacy law. Although case law is cited and explored in depth, readers need only a basic understanding of the intricacies of privacy law. Those interested in the meaning and evolution of privacy will likely find this book intriguing and insightful. With its extensive discussion of topics such as evidentiary privileges and censorship, this book is highly recommended for academic law libraries.

Koppelman, Andrew. *Burning Down the House: How Libertarian Philosophy Was Corrupted by Delusion and Greed*. New York: St. Martin's Press, 2022. 310p. \$28.99.

*Reviewed by Julia M. Tedjeske Crane**

¶46 In *Burning Down the House: How Libertarian Philosophy Was Corrupted by Delusion and Greed*, Andrew Koppelman examines modern libertarianism from a pro-capitalist, leftist perspective. Koppelman identifies “leftists and libertarians” (p.9) as the two primary audiences for the book. He hopes to help both groups see their goals as similar, as each seeks prosperity and freedom for all. Libertarianism is a type of

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