In a letter dated July 6, 1766, Adam Smith consoled his dear friend David Hume after Jean-Jacques Rousseau rebuffed the refuge in Derbyshire, England and pension from the King that Hume had procured for him. Smith validated Hume’s feelings that Rousseau had insulted him and agreed that Rousseau’s mistakes should be exposed. However, he implored that Hume refrain from printing the letter, which would only embroil Hume in the gossip of French and English “literati” that may unjustly take the side of Rousseau over him (Correspondence, No. 93, 113). Smith writes,

“By endeavouring to unmask before the Public this hypocritical Pedant, you run the risk, of disturbing the tranquility of your whole life. By letting him alone he cannot give you a fortnight’s uneasiness. To write against him, is, you may depend upon on it, the very thing he wishes you to do. He is in danger of falling into obscurity in England and he hopes to make himself considerable by provoking an illustrious adversary. He will have a great party. The church, the Whigs, the Jacobites, the whole wise English nation, who will love to mortify a Scotchman, and to applaud a man that has refused a Pension from the king.” (Correspondence, No. 93, 113)

While Smith sympathized with the frustrations of his friend, he worried that if Hume further publicized his difficulties with Rousseau, his misery relating to the “absurd accusations” Rousseau launched against him would only be exacerbated.1 While Hume had found a

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2 David Edmonds and John Eidinow, “Enlightened Enemies,” The Guardian, April 28, 2006,
compassionate audience in Smith, Smith warned that the rest of the world might not be so properly attuned to Hume’s feelings, noting in particularly anti-Scottish prejudice. In today’s parlance, Smith’s advice might be more succinctly summarized as “Don’t feed the trolls.” Smith appeared to be proven correct; after publishing his “Concise and Genuine Account of the Dispute between Mr. Hume and Mr. Rousseau,” the various journals and letter writers to journals responded with some compassion for Hume but also significant compassion for Rousseau, contrary to Hume’s expectations of universal censuring of Rousseau.²

In his response to Hume, Smith expresses a clear concern that Rousseau had treated Hume inappropriately but also an anxiety that Hume would do better to deal with the incident as privately as possible and avoid exposing himself to the broader public audiences of England of France. In the framework of Smith’s moral philosophy, the impartial spectator might recognize the harm Rousseau had sought to do to Hume’s reputation, but actual spectators of the dispute between the two philosophers may not judge so accurately. By exposing his humiliation to society at large, Hume risked exacerbating his distress, rather than alleviating it.

Although the case of Hume and Rousseau illustrates a relatively petty squabble of status among the members of the literary elite, Smith exhibits a strong sensitivity to the psychological harms of public exposure for broader swaths of society that has gone unexamined in secondary literature. Scholars have studied the connection between Smith’s emphasis on the faculty of sight and theatricality and his model of the conscience, the impartial spectator.³ Theorists have also compared Smith’s theory regarding the development of conscience and Michel Foucault’s theory

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³ Charles L. Griswold, Jr, Adam Smith and the Virtues of Enlightenment, (Cambridge: Cambridge University Press, 1999); David Marshall, The Figure of Theater, (New York: Columbia UP, 1986).
of the disciplinary power of surveillance in forming the non-violent individual of modern political communities.\textsuperscript{4} While there are important similarities between Foucault’s theory of the power of surveillance to discipline the behavior of those who are seen and the socializing aspects of Smith’s theory of the impartial spectator, mapping Foucault’s model of surveillance onto Smith’s theory of the impartial spectator elides crucial aspects of Smith’s anxieties regarding how different individuals experience the gaze of actual spectators.

By highlighting Smith’s concerns for the discordant consequences of the moral processes that he studies, I follow Michelle Schwarze’s and John Scott’s argument that “endemic to the process of moral spectatorship itself…is the constant possibility that our intentions and actions will not be properly assessed by others and that we will therefore not gain their mutual sympathy.”\textsuperscript{5} They examine Smith’s sensitivity to the “psychological disharmony” that arises when society fails to punish injustice or unjustly condemns innocent individuals, causing individuals directly involved and spectators to feel “ungratiﬁed resentment.”\textsuperscript{6} 

I expand Schwarze and Scott’s rich account of Smith’s case of the innocent man accused of a crime to include other cases where Smith acknowledges spectators are apt to cause undue psychological distress in the individuals with whom they fail to sympathize. Embedded within \textit{Theory of Moral Sentiments} is an account of the harms that forced public exposure perpetuates against individuals, especially marginalized members of the community. In this manner, Smith’s philosophy enriches Foucault’s model of surveillance as well as contemporary research that

\begin{footnotesize}
\textsuperscript{6} Schwarze and Scott, “Spontaneous Disorder” 463, 473.
\end{footnotesize}
relies on it by providing a normative basis for why society ought to commit to respecting individuals’ ability to control the terms of their own visibility.

In order to retrieve Smith’s insights on the moral psychological harms of public exposure and the relevance these insights have for our time, this paper consists of three main sections. First, I examine Fonna Forman-Barzilai’s use of Michel Foucault’s theory of surveillance and discipline. Smith’s revisions that draw out the independence of the impartial spectatorship away from what we could now consider Foucauldian notions of “normalization” extend two original insights from the first edition of TMS, (1) the tendency of our interest in each other to draw us to disregard each other’s personal privacy, and (2) the difficulty of evoking fellow-feeling (let alone compassion) from actual spectators when one is experiencing misery, including tendency for spectators to sometimes blame individuals who suffer for their own distress.

Second, I provide detailed exegesis of the three cases present in Smith’s complete work that illustrate his concern for the emotional distress caused by public exposure: the case of the person accused of a crime he did not commit, the case of the impoverished individual, and instances where individuals desire private confession and consolation, particularly those who are innocent but may feel socially-induced shame, which includes rape survivors. These three cases illustrate the problem that actual spectators may not only fail to adequately relate to individual’s suffering, but they may even exacerbate it by blaming her for her own distress.

Third, I put the insights drawn out from the exegesis of Smith in conversation with contemporary research in order to show how Smith’s moral psychology enriches our understandings of the normative value of privacy. I conclude by evaluating both the strengths

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and weaknesses of Smith’s insights as inspiration for normative democratic theory. By theorizing the harmful effects of policies of surveillance we may be able to call for particular reforms that would both secure individuals’ control over the terms of their visibility and empower them as equal members of the democratic political community.

I. Beyond Surveillance and Discipline

In developing her reading of Smith’s model of the impartial spectator in order to analyze the insights his philosophy may have for contemporary debates regarding cosmopolitanism, Fonna Forman-Barzilai draws an elucidating comparison between Smith’s moral philosophy and Foucault’s work in *Discipline and Punish*. She illustrates much of the changes Smith made to the initial edition of *TMS*, particularly in the final 1790 edition, aimed at making the impartial spectator a more independent model of the conscience in response to the “charges of moral conventionalism” that he faced from early readers. Her historiographical analysis helps explain the immense debate among Smith scholars regarding the extent to which the impartial spectator represents a “socialized conscience” or independent and detached from social conventions.

Nevertheless, she asserts a fundamental continuity between Smith’s model of the conscience and his account of the social practices of sympathizing that she compares to Foucault’s descriptions of surveillance and discipline as modern techniques of socialization. Forman-Barzilai uses Foucault’s theory to characterize sympathy as arising in two stages: the first, “surveillance,” in which a spectator observes, judges, and expresses his judgment of “an ‘agent,’” and the second, “discipline,” where the agent, having experienced actual spectators and

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8 Forman-Barzilai, *Adam Smith and the Circles of Sympathy*, 96-105.
10 See Forman-Barzilai, *Adam Smith and the Circles of Sympathy*, 91-93 for a succinct review of the different interpretations along this spectrum.
11 Forman-Barzilai, *Adam Smith and the Circles of Sympathy*, 12, 14, 89.
internalizing their expected judgments, molds her behavior, “ultimately, through repetition, to become a member of a moral culture.” The impartial spectator is individuals’ internalization of actual spectators that functions as disciplinary mechanism on their feelings, judgments, and actions, in order to “socialize them into the group, to marginalize or sublimate their differences and perpetuate cultural norms without traditional (bloody) forms of coercion.” Forman-Barzilai argues the comparison is helpful because it elucidates the “relations of power that govern sympathetic activity in Smith’s account” and shows how the impartial spectator may ultimately undermine “the autonomy and independence” to which Smith was committed. Smith’s revisions can be understood as confronting this tension within his work.

However, by emphasizing the similarities between Foucault’s account of power and Smith’s theory, we risk neglecting the anxieties Smith expressed about public exposure and judgment from the earliest edition of his work. Smith’s revisions further expounded these anxieties. Smith expresses deep concerns for how the public audience can just as easily

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12 Forman-Barzilai, *Adam Smith and the Circles of Sympathy*, 63.
13 Forman-Barzilai, *Adam Smith and the Circles of Sympathy*, 64.
14 Forman-Barzilai, *Adam Smith and the Circles of Sympathy*, 64.
15 Forman-Barzilai, *Adam Smith and the Circles of Sympathy*, 76.
16 These revisions include TMS I.iii.3, 61-66, on the corrupting effects of the public’s tendency to admire the great, and TMS III.2, 113-134, which includes the case of the innocent man, which serve as primary examples in Forman-Barzilai’s analysis in *Adam Smith and the Circles of Sympathy*, 93 fn94. As Forman-Barzilai argues, the corrupting influence of the “vulgar displays of wealth and power parading themselves as virtue and greatness in eighteenth-century British life” inspired Smith’s later revisions to differentiate the independence of the impartial spectator from conventionalism (96-97). However, these revisions further draw out Smith’s original concerns regarding the impact of economic inequality on the power of spectatorship, namely that the wealthy were not at all disciplined by spectators but hold disproportionate influence over the public audience, examined in the first edition of the work (I.ii.2.1-4, 50-54). I further examine the advantages of the wealthy with respect to actual spectators and the implications in my dissertation and develop the implications of Smith’s argument for approaches to political accountability in another manuscript. It is also worth noting that though Smith adds his major discussions of the innocent man accused of a crime in the final edition, earlier editions contain a brief if more optimistic discussion of the example (III.5.8, 167).
exacerbate rather than soothe an individual’s misery. Smith also recognizes that these moments of disjunctive threat the for the fortitude of the individual’s inner impartial spectator. Smith opens *TMS* with an observation that man cannot be purely selfish because the “happiness of others” feels necessary to him, “though he derives nothing from it but the pleasure of seeing it” (I.i.1.1, 9). However, by the final part of the book, this other-oriented pleasure relies on a more worrying desire “to feel how each other is affected, to penetrate into each other’s bosoms, and to observe the sentiments and affections which really subsist there” (VII.iv.27, 337). Smith warns that this desire can be so strong “that it often degenerates into a troublesome and impertinent curiosity to pry into those secrets of our neighbours, which they have very justifiable reasons for concealing” (VII.iv.27, 337). Our desire for others to share themselves with us can extend far beyond what they want to reveal. We seem to exercise a kind of coercion when we “pry into those secrets” of others. But what may serve as the “justifiable reasons for concealing” something about our lives?

Answering this question requires recourse to the implications Smith’s draws from his opening claim on the pleasure we derive in seeing each other: because we feel greater pleasure in “seeing” the good fortune and joy of others, we can be greatly anxious about the forced exposure of our suffering (I.iii.2.1, 50). Smith argues that when we find ourselves in misfortunate circumstances we may also wish for privacy, anticipating that others will not adequately sympathize with us. Smith articulates a sensitivity to the anxiety of public exposure from the first edition of his work, writing, “Nothing is so mortifying as to be obliged to expose our distress to the view of the public, and to feel, that though our situation is open to the eyes of all mankind, no mortal conceives for us the half of what we suffer” (I.iii.2.1, 50). Yes, our awareness of the
insensibility of others to our feelings helps “discipline” us to develop virtues of self-command, but Smith expresses concerns over the difficulties of this social process for the individual’s well-being. Although life in poverty is the specific kind of “misery” that Smith discusses in this section, he begins with this broad claim that, in our most miserable and vulnerable moments, to be compelled to expose our suffering to others, particularly when others are less compassionate than they ought to be, is to compound our pain, rather than alleviate it. We anticipate, perhaps correctly, that even by opening up, no spectator could fully sympathize with our suffering. In the case of the impoverished person, it is not merely that the real spectator cannot relate to the person’s poverty, but that she will tend to look at it with disdain and resent how the sight of the poor disturbs her own pleasant state of life (I.iii.2.1, 51). As a result, by revealing his misery the individual also puts himself at risk of feeling undeserved blame for his situation.

In sum, at the heart of Smith’s anxiety about actual spectators is not merely a failure of people to adequately sympathize with an individual’s suffering but also the tendency of actual spectators to blame that individual for his distress. In the following section, I exegete three

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17 Forman-Barzilai, *Adam Smith and the Circles of Sympathy*, 84-86. Smith insists developing the virtues of humanity, or the sensibility to the feelings and suffering of others, strengthens one’s virtues of self-command (III.3.34-36, 152). In a society without overall basic economic security, where most individuals struggle to meet their own daily needs, each person tends to conceal his distress, as he “expects no sympathy from those about him, and disdains upon that account, to expose himself by allowing the least weakness to escape him” knowing all others are “too much occupied with their own wants and necessities to give much attention to those of another person” (V.2.9, 205). As such, Smith argues members of less economically developed communities have strong self-command but insufficient sensitivity to each others feelings, whereas economic development leads to an openness of humanity to one another and also a decline in the “disciplinary” effects of the community on individuals’ emotional expressions (V.2.10-11, 207-208). Of course, one could say that people are being disciplined by society to not be so disciplinary in what they conceal from each other. While Smith evaluates this process positively insofar as it cultivates stronger habits of honesty, this paper highlights Smith’s anxiety that the potential excesses of the modern European commitment to openness may end up causing psychological harm to the person publically exposed (VII.iv.27, 337). See also Forman-Barzilai for further discussion of Smith’s cultural pluralism, 244-245.

18 See also Marshall, *The Figure of Theater*, 185.
important sections of *TMS* that help illustrate the harms of public exposure and the desire of an individual to control what they reveal about themselves to others. First, I examine the psychological suffering of the innocent man deemed blameworthy or guilty of a crime he didn’t commit, which offers the basic framework of Smith’s articulation of the problem of public exposure: the harmful effects of feeling undeserved blame and socially induced shame. Second, I further examine Smith’s comments on the difficulties of life in poverty. Finally, Smith further explores the fear of undeserved public shame in his discussion of the origins of the Catholic practice of confession.

II. “Justifiable Reasons for Concealing”

When qualifying his praise for our tendency to trust open and frank individuals over those who seem unnecessarily reserved, Smith notes that our desire for others to share themselves with us can extend far beyond what they want to reveal (VII.iv.28, 337). By further examining Smith’s approach to actual spectatorship, we find three different situations that spur and offer “justifiable reasons” to seek refuge from “disciplinary gaze” of the public audience.¹⁹

While each of these examples are embedded within distinct contexts of *Theory of Moral Sentiments*, all three exemplify a concern that, in our roles as spectators, Smith thinks we more readily empathize with those who are happy or those who suffer distress with powerful self-command (I.iii.1.10-14, 47-48). As a result, those who suffer may also be most at risk to experience public visibility without its attendant reward of fellow-feeling.²⁰ The independence of Smith’s impartial spectator comes through in these cases, as a well-developed impartial spectator

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¹⁹ I do not intend to imply that these are the only circumstances that may justify privacy, only that these are relevant examples within *TMS*.
²⁰ Marshall, *The Figure of Theater*, 190.
is also a resource of “self-satisfaction” that is necessary condition for exercising true virtue, particularly in the face of “social corruption.” 21

Smith’s account of the psychological experience of the innocent individual wrongly judged guilty of a crime he did not commit is the last passage Smith added to TMS examined in this manuscript. It is worth starting with because it most straightforwardly encapsulates Smith’s concerns for the harms perpetuated by actual spectators on an individual as well as the implications these harms have for moral autonomy. Public exposure is particularly harmful when prejudiced spectators who judge an individual’s character inaccurately subject the individual to undeserved blame.

Smith calls the “undeserved loss of reputation” the “greatest” of “all the external misfortunes,” for men and women (III.3.19, 144-145). His account of the person accused of a crime that he did not commit serves as a particularly stirring example of an undeserved loss of reputation. The innocent man feels “violent resentment” against the mistaken judges of his conduct. 22

However, in addition to resentment, the mistaken judgment of actual spectators have powerful consequences for how the innocent man sees himself and the strength of the impartial spectator to whom he ought to appeal for consolation. 23 Faced with the harsh judgment of others, the innocent person feels anxious and begins to doubt and shame himself: “Though perfectly conscious of his own innocence, the very imputation seems often, even in his own imagination to

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22 Schwarze and Scott, “Spontaneous Disorder,” 473.
23 Schwarze and Scott also show how this moment is one of two important instances that show how Smith turns to providential appeals to try to console readers about the enduring problem of “unsatisfied resentment,” challenging arguments that see Smith’s model as so orderly that he must rely on “providential theology” (“Spontaneous Disorder in Adam Smith’s Theory of Moral Sentiments,” 465, 473-5).
throw a shadow of disgrace and dishonor upon his own character (TMS III.2.11-13, 119-121).

Despite fully knowing his own innocence and the “just indignation” he feels toward others, his view of his own character is obscured. When society decides the innocent individual is worthy of blame, his impartial spectator is overwhelmed and he doubts his own character and experiences. Smith’s discussion of his unique form of anxiety and suffering is particularly moving:

We scarce dare to absolve ourselves, when all our brethren appear loudly to condemn us. The supposed impartial spectator of our conduct seems to give his opinion in our favour with fear and hesitation; when that of all the real spectators, when that of all those with whose eyes and from whose station he endeavors to consider it, is unanimously and violently against us. In such cases, this demigod within the breast appears, like the demigods of the poets, though partly of immortal, yet partly too of mortal extraction. When his judgments are steadily and firmly directed by the sense of praise-worthiness and blame-worthiness, he seems to act suitably to his divine extraction: But when he suffers himself to be astonished and confounded by the judgments of ignorant and weak man, he discovers his connection with mortality and appears to act suitably rather to the human, than to the divine, part of his origin. (III.2.32, 131)

The innocent man’s faith in his conscience and in his abilities to evaluate himself is only so strong. While moral sentiments and a developed “impartial spectator” allow him to understand true blameworthiness and praiseworthiness, he cannot so easily disregard the reactions of actual spectators. Even though he knows he did not perform that act of which he has been accused, the reactions of others induce him to consider himself capable of such a violation, and that is enough to doubt his own goodness (119). Importantly, Smith insists that truly good people are more disturbed by such false accusations than people who are habitually guilty of the same “smaller offenses or greater crimes,” calling into question the efficacy of such public condemnations (III.2.13, 121).

When Smith later discusses the value of surrounding oneself with strangers rather than friends, he proposes, “The propriety of our moral sentiments is never so apt to be corrupted, as when the indulgent and the partial spectator is at hand, while the indifferent and impartial one is
at a great distance” (III.3.41, 154). Considering the case of the innocent man, Smith’s claim appears in a different light – the partial and flawed judgments of real spectators that wrongly censure the individual can also alienate his impartial spectator and corrupt his sentiments. In this instance, actual spectators’ desires to publicly denounce and shame the perceived criminal causes undeserved emotional distress and has a counterproductive effect on the moral fortitude of innocent people. When the innocent man attempts to call forth his impartial spectator by relating to real spectators, his senses of his moral capacity and his self-identity falter and fade. Smith intimates that God may be the only truly reliably sympathetic spectator; even the impartial spectator may fail. Religious faith that, at the end of his life, justice will be served becomes the last source of comfort to the wrongly judged individual (III.2. 12, 120-121; III.2.32, 131-132).  

Nevertheless, there are other circumstances wherein individuals find themselves subject to undeserved public shame much like the innocent man. Smith argues individuals living in poverty are vulnerable to unique anxieties in facing a public audience. Smith highlights the power of socioeconomic inequality to “distort” sympathy and also exacerbate the misery of impoverished people by closing them off from the possibility of sympathetic attention.  

However, in addition to highlighting the obscurity of indigent people, Smith also examines the unjust scorn they often face from the rest of society when others do pay attention to them.

As examined above, when discussing social status, Smith writes, “Nothing is so mortifying as to be obliged to expose our distress to the view of the public, and to feel, that though our situation is open to the eyes of all mankind, no mortal conceives for us the half of what we suffer” (I.iii.2.1, 50). He explains that actual spectators “turn away their eyes from him, 

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24 See Schwarze and Scott, “Spontaneous Disorder,” for a more thorough analysis of Smith’s references to providence and religion.

25 Dennis Rasmussen, “Adam Smith on What Is Wrong with Economic Inequality,” American Political Science Review Vol. 110, No. 2 (May 2016), 342-352, 350-351.
or if the extremity of his distress forces them to look at him, it is only to spurn so disagreeable an object from among them” (I.iii.2.1, 51). The impoverished person is subject either to a painful anonymity that “places him out of the sight of mankind” (I.iii.2.1, 51), adding the feeling of isolation to his miseries, or to a public censuring wherein others unfairly scorn and alienate him from the community. Smith concludes that the impoverished individual is “mortified upon both accounts; for though to be overlooked, and to be disapproved of, are things entirely different, yet as obscurity covers us from the daylight of honour and approbation, to feel that we are taken no notice of, necessarily damps the most agreeable hope and disappoints the most ardent desire, of human nature” (I.iii.2.1, 51). Hiding from society guarantees losing out on the possibility of being attended to, but being seen and receiving shame from others rather than compassion introduces another form of emotional distress. Nevertheless, Smith seems to conclude that if he does attract the attention of others, the impoverished person is more likely to be censured and shamed than loved.

By nearly opening his discussion of social ranks with a declarative statement on the anxiety of exposure, Smith implies that when we expose what we know to be true misery and fail to find adequate consolation, we experience shame even worse than the feeling of being hidden from society’s view. Where we hope to find sympathy from others, we come to face to face with only our own vulnerabilities. While we may find comfort in the presence of a private, sympathetic spectator, we are generally skeptical that anyone could truly relate to our misery. Thus, to be forced to reveal one’s own misfortune is an especially painful experience.

In the case of the impoverished individual, because individuals’ self-presentation can be determined by wealth, it can be difficult to engage publicly without also exposing economic struggle. Smith alludes to the uniquely shameful visible evidence of poverty that nevertheless
fails to elicit sympathy, writing, “Before a gay assembly, a gentleman would be more mortified to appear covered with filth and rags than with blood and wounds. This last situation would interest their pity; the other would provoke their laughter” (I.iii.2.9, 60). Smith indicates that society tends to view poverty as a less disturbing harm, and actual spectators are therefore less likely to feel sympathy or admiration for the person who endures it. It’s worth noting that Smith defines poverty relative to the necessities that people must have in order to appear in public without shame, which can vary across time and place according to levels of economic inequality.26

In his discussions of the experiences of the impoverished individual, Smith challenges both religious and secular perspectives dominant in his time that justified the lower status of the poor and sought to keep “poor people poor” on the basis of their supposed moral or intellectual inferiority.27 Smith details the disproportionate disdain and shaming directed by many of society at least fortunate among them. Like the innocent individual accused of a crime, the indigent individual faces undeserved blame expressed by his fellows. Smith argues when it comes to the actions of a poor person, a “single transgression of the rules of temperance and propriety is commonly more resented” than the “constant” violations of the wealthy (I.iii.3.4, 63).28 In fact, it is not merely that we judge the wrongdoings of the poor more harshly than those of the

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28 Smith’s discussion of the disproportionate admiration and trust that most actual spectators feel for the great has implications for the possibility of spectatorship as a mechanism for political accountability that I discuss further in a dissertation chapter.
wealthy, but that we “despise” the “poverty and weakness of the innocent” alone more so than we condemn the actual “vices and follies of the powerful” (I.iii.3.2, 62). In this manner, the impoverished individual is at risk of experience the misery of socially induced feelings of anxiety, shame, and self-doubt that the innocent person accused of a crime feels. Although Smith focuses on life in poverty, his broad statement applies to miseries beyond material wellbeing that similarly connect self-worth with the ways others view us.

Finally, Smith examines how when people worry they have done something wrong, they long for someone to confide in; he cites this psychological phenomenon as the origin of the Catholic tradition of confession (VII.iv.17, 333). Smith documents how such individuals include those who have committed injustices, forms of deceit, and violations of chastity, which include extreme instances that are also true injustices, such as rape (“where no person can be guilty of them without doing the most unpardonable injury to some other”) as well as less severe breaches of modesty that disproportionately affect women with respect to their public reputation and perceived social worth (VII.iv.21, 335). Notably, Smith casts our drive for confession as instigated by anxieties regarding how the rest of society would view us, instead of, say, a desire to seek absolution from a God who sees all. Individuals seek a sympathetic confidante to assuage the anxiety and fear that comes with not only knowing one has “done wrong” but also merely suspecting oneself as having committed an evil (VII.iv.17, 333). Individuals with a powerful conscience may regret both wrongful actions and experiences that may not have actually been wrongful. For example, Smith refers to an ancient notion of the “piacular” to describe individuals who feel what he calls “fallacious sense of guilt,” in situations when they

29 The full quote referenced: “We see frequently the vices and follies of the powerful much less despised than the poverty and weakness of the innocent” (I.iii.3.2, 62). So, even if an individual does not experience the direct scrutiny of others, they are apt to witness and internalize such harsh public judgments.
accidentally or involuntarily are involved in some kind of unfortunate event or wrongdoing (II.iii.3.5, 107).\textsuperscript{30} Such individuals could include the most wise and virtuous.\textsuperscript{31} These individuals and others would fall into the category of people who might seek private confession and consolation.

Although people feel ashamed revealing their wrongs, or suspected wrongs, to others, they are comforted by the sympathy of their confidantes.\textsuperscript{32} Smith writes, “It relieves them to find that they are not altogether unworthy of regard, and that however their past conduct may be censured, their present disposition is at least approved of, and is perhaps sufficient to compensate the other, at least to maintain them in some degree of esteem with their friend” (VII.iv.17, 333-334). As David Marshall notes, Smith appears to sympathize with the remorseful murderer’s unique pain of sensing himself forever shut out from the possibility of sympathetic spectators, “an anxiety everyone must fear, if not experience.”\textsuperscript{33} Confiding with another individual presents the possibility of redemption by gaining an opportunity to show that he now knows better. The individual can see himself as more than the sum of the immoral acts or sentiments he had experienced. Perhaps when an individual feels he has violated what is right, he worries that he has doomed himself to be undeserving of society. To be able to sit with a sympathetic spectator who does not recoil in disgust seems to provide hope that this is not necessarily the case.

Although I do not want to downplay the desire for privacy of those who have directly perpetrated wrongs, I want to particularly underscore Smith’s nuanced approach to examining

\textsuperscript{30} Eric Schliesser, \textit{Adam Smith: Systematic Philosopher and Public Thinker}, (Oxford, UK: Oxford UP, 2017),122-123. However, I depart from various aspects of Schliesser’s interpretation, especially his argument that Smith’s impartial spectator would approve of the “piacular” and of attempts to atone for it, especially through suicide.

\textsuperscript{31} Schliesser, \textit{Adam Smith}, 127.


\textsuperscript{33} Marshall, \textit{The Figure of Theater}, 181-182, citing TMS II.ii.2.3, 84-85.
the circumstances of people who are themselves the victims of others’ actions but nevertheless anxious about public shaming and thus might desire a kind of private confession, Smith discusses two different categories but connects them: those who break promises they originally only made under the threat of death (VII.iv.9-14, 330-333) as well as people, particularly women, who have been raped (VII.iv.13, 332). Smith argues that others may still look down on these people, even though they do not deserve blame that ought to be directed towards the people who mistreated them; by doing so, he illuminates how they may feel shame that can be best soothed by a sympathetic and discreet audience despite not being guilty of injustice. Such people may not be likely to garner the sympathy of many ordinary spectators, or at least they fear they are not likely to receive such sympathy. Thus, to soothe the suffering and shame they feel, they will benefit more from a single sympathetic and confidential listener than the general public.

Within his criticism of casuistry, Smith compares society’s strong commitment to truthfulness to society’s strong emphasis on women’s chastity. In order to distinguish between casuistry and jurisprudence, Smith examines the case of a man who breaks a promise he originally makes to a highwayman under threat of death (VII.iv.9, 330); Smith argues jurisprudence clearly dictates that a coerced promise is invalid to begin with, but notes various casuists throughout history and in his own time rigorously debate whether the man should be censured for breaking his promise anyway (VII.iv.10-14, 330-333). In the middle of this discussion, Smith compares the case of the coerced promise to the public shame actual spectators direct at rape survivor or that rape survivors may feel about themselves. Smith argues that sexual promiscuity offends moral sentiments so much so that “no circumstances, no solicitation can excuse it; no sorrow, no repentance atone for it” (VII.iv.13, 332). He specifies, “We are so nice in this respect that even a rape dishonours, and the innocence of the mind cannot, in our
imagination, wash out the pollution of the body” (VII.iv.13, 332). In this manner, Smith implies that survivors of rape, a crime Smith later calls the “the most unpardonable injury” that a person can do to one another, may only be able to rely on a private spectator inclined to respect and sympathize with them and to soothe their misery, a misery that may include undeserved feelings of shame (VII.iv.21, 335). Importantly, Smith’s discussion of the social censure of rape victims is descriptive; he highlights the tendency of the human “imagination” to attach “the idea of shame” to all “violations of chastity in the fair sex,” even rape, without offering a clear normative evaluation of that tendency (VII.iv.13, 332). Nevertheless, in *Lectures on Jurisprudence*, Smith classifies different kinds of harm that the rape survivor experiences, which include “a breach of the liberty of the woman and a great injury to her” as well as “injury done to her reputation,” for which capital punishment “alone seems to be a sufficient compensation” “in all civilized nations” (LJ, ii.131, 120-121).34

34 Smith also describes a variation in social norms regarding the importance of fidelity as corresponding to the degree of social attribution of blame to the victim of rape, which changes with the prevalence of divorce across time and place. For example, Smith argues that the Christian prohibition on all divorces, whether sought by the husband or wife, led to an emphasis on love in the choice of a marriage partner that was not emotionally salient in ancient Greece and Rome (LJ, iii.13-23, 146-150). He argues that the ease and prevalence of divorce in Ancient Greece meant Menelaus would not express any indignation for the “infidelity” that might have been read in Helen’s suffering of rape (iii.21, 149). Smith also argues the political power of men allows them to enact more oppressive policies with respect to women’s fidelity and more license to men (iii.16, 137), and argues divorce laws instituted by Christian clergy, who were not personally affected by marriage, were fairer, initially allowing women to obtain divorce in instances of infidelity or the “great cruelty of the husband,” which Smith noted would be the most common (iii.13-14, 146). However, Smith does seem to lament the spreading of “very loose notions of chastity and good behavior” throughout society when wealthy women were able to access the power of divorce in Rome and remarried multiple times (iii.12, 145). For further discussion of Smith’s arguments with respect to women, see Henry C. Clark, “Women and Humanity in Scottish Enlightenment Social Thought: The Case of Adam Smith,” *Historical Reflections/Réflexions Historiques*, Vol. 19, No. 3 (Fall 1993), 335- 361; Sebastiano Nerozzi and Pierluigi Nuti, “Adam Smith and the Family,” *History of Economic Ideas*, Vol. 19, No. 2 (2011), 11-41; Maureen Harkin, “Adam Smith on Women,” in *The Oxford Handbook of Adam Smith*, ed. Christopher J. Berry, Maria Pia Paganelli, and Craig Smith, (Oxford, UK: Oxford UP, 2013),
If it is plausible that Smith took his notion of the “piacular” from Livy, then it is plausible to connect his reference to “the innocence of the mind cannot, in our imagination, wash out the pollution of the body” to Livy’s depiction of Lucretia’s suicide, which Roman soldiers plead with her not to commit by telling her “it is the mind that sins not the body, and where there has been no consent there is no guilt” (Livy, Book 1 Ch. 58). Whereas Augustine censures Lucretia as “excessively eager for honour,” implying she took “vengeance on” herself “for another’s crime,” and concludes that to commit suicide in response to rape is “to deviate from the authority of God’s law by taking unlawful steps to avoid the suspicions of men” (Book I, Ch. 19, 30-31), Smith treats suicide more sympathetically. While he criticizes ancient praise of suicide, he also goes against predominant opinion in his time by arguing that it is not criminal but due to a “species of melancholy,” or a “disease.” He adds, “victims” of suicide “are the proper objects, not of censure but of commiseration” (VII.ii.1.34 and n. 36, 287).

Although casuists debate whether or not to condemn the man who breaks a promise made under coercion, jurisprudence makes it clear that “to extort the promise was a crime, which deserved the highest punishment, and to extort the performance would only be adding a new

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37 I do not use the term “piacular” to refer to the cases I discuss because Smith did not, and, by having some element of coercion, they seem to differ from some of the instances where he did. It is beyond the scope of this paper to directly counter Schliesser’s argument, but I want to underscore that Smith’s commentary on suicide throws into question Schliesser’s argument that Smith would approve of suicide as an praiseworthy “atonement” for the peculiar feeling (Schliesser, *Adam Smith*, 125).
crime to the former” (VII.iv.10, 330).\textsuperscript{38} Extending Smith’s original comparison to the instance of rape, jurisprudence ought to be clear that she is innocent and should not be condemned as a violator of chastity, despite mankind’s tendency to do so.\textsuperscript{39} Similarly, just as “no man…who had gone through an adventure of this kind would be fond of telling the story” of how he made a promise under threat of death (VII.iv.13, 333), no woman would be fond of telling her story.

Within a strong Christian community such as the one Smith examines, all violations of chastity, including those that are consensual and less traumatizing, may inspire an individual to seek private confession, but the case of the rape survivor emerges as a particularly striking example of an individual who would seek a secret outlet to work through undeserved “suspicions of having done wrong” and unjust feelings of shame that would be provoked by public exposure.\textsuperscript{40}

These three examples present individuals who suffer from shame and insecurity as a result of the judgments of real spectators that contradict the judgment of impartial spectators. In

\textsuperscript{38} This disjuncture between casuistry and jurisprudence could be another reason why Smith offers the impartial spectator as a replacement for casuistry (VI.2.1.22, 226-227). See Minowitz, 216 for a brief summary of Smith’s critique of casuistry.

\textsuperscript{39} Note how Smith references “pollution” in his discussions of the man who broke a promise made under threat of death (VII.iv.13, 333) and of the rape survivor (VII.IV.13, 332), just as he also uses “ignominy” to refer to the promise-breaker (VII.iv.13, 332) and women who are seen as violating chastity (VII.iv.19, 335).

\textsuperscript{40} Smith’s discussion resonates with contemporary literature on survivors of traumatic events, including rape. Trauma survivors may experience two different forms of shame – internal and/or external. Internal shame refers to the individual’s own judgment of herself as “devalued,” damaging her self-esteem, whereas external shame refers to a sense that others will look down on her (Deborah A. Lee, Peter Scragg, and Stuart Turner, “The Role of Shame and Guilt in Traumatic Events: A Clinical Model of Shame-Based and Guilt-Based PTSD.” \textit{British Journal of Medical Psychology} Vol. 74, (2001), 451–466, 452). Both forms of shame can induce “safety behaviors,” including “submission, desire to escape, hiding, and concealment” (Lee, Scragg, and Turner, 452, citing Gilbert, 2000a and Clark and Wells (1995)).
all three instances, individuals who deserve sympathetic consolation end up objects of scorn in the eyes of the typical actual spectator. Only a very firm, self-assured nature, with which the individual knows himself to be truly good, or at least, not blameworthy, can resolve the problems of unjust censure. Such a person knows society does not “hate and despise” him, but “another person they mistake him to be” (TMS, VII.ii.4.11, 311).

**III. Smith’s Insights and Our Time**

Although highlighting Smith’s anxiety regarding public exposure and the moral-psychological harms it may inflict on the individual is valuable for expanding the scholarly understanding of Smith’s philosophy, it can also be help illuminate the importance of privacy in our time. In *The Poverty of Privacy Rights*, Khiara M. Bridges analyzes the lack of privacy that she previously documented through her ethnographic research of poor, pregnant mothers’ experiences with the American government via public hospital visits in *Reproducing Race: An Ethnography of Pregnancy as a Site of Racialization*. She argues that American cultural discourse, including the decisions of American jurists, presumes people living in poverty “suffer from behavioral and/or ethical deficiencies,” and as a result, they are not granted privacy rights. This “moral construction of poverty” (as Bridges calls it) resembles the English approach to the poor that Smith has been read as countering. Bridges also helps us move beyond Smith’s writings by highlighting the relevance of race in the American context, noting that “racial minorities are disproportionately represented among the poor” including highlighting the role race plays in the late twentieth-century political construction of the controlling image of the

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“welfare queen.”

Bridges’ references to Foucault help characterize the surveillance power that the American government exercises over its subjects, the effects of biopolitical control in pressuring individuals to expose themselves to the state, and in the creeping threat that government rigidly direct and normalize the lives of individuals.

Yet putting Smith’s insights on the harm of public exposure in conversation with her scholarship can enrich the normative force of her arguments regarding the value of privacy by drawing out the negative moral psychological effects that coerced public exposure perpetuates against individuals.

Bridges analyzes experiences of everyday people that interweave the three cases examined above. She offers evidence that impoverished members of society are disproportionately at risk of finding themselves in the position of Smith’s innocent man, treated like criminals despite their innocence, a conclusion that Smith does not draw but is consistent with his emphasis on the increased scrutiny that ordinary spectators employ against the poor (I.iii.3.2 and 4, 62, 63). Furthermore, Bridges highlights the manner in which state regulations place an undue burden on impoverished pregnant women and mothers to reveal past experiences of sexual trauma, reminiscent of Smith’s gestures toward the social tendency to connect chastity to moral character, even in cases of coercion.

Bridges compares the experiences of poor pregnant women and mothers to the broader population who experiences stop and frisk policing, such as in New York where “eighty-eight percent of these stops did not result in an arrest or a summons being given. Contraband was

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found in only 2% of these stops.”\textsuperscript{46} While many factors may contribute to the poor being more heavily policed than the wealthy, including their relative lack of access to private spaces,\textsuperscript{47} it is not merely the visibility of the poor that determines their vulnerability to state surveillance and interventions. Wealthier individuals are similarly visible to the state through “employment, schooling, immigration, taxation, and social welfare” policies as well as public support in the form of “direct or indirect subsidies through tax, inheritance, and other laws;” instead, the state chooses not to take these “opportunities to regulate families.”\textsuperscript{48}

Importantly, it is not only state actors that facilitate invasions of privacy. Even if poor women are more likely to use public hospitals and wealthier women in private hospitals, all healthcare workers are required to “report child maltreatment” to the government, yet various studies show poor families are disproportionately investigated; research also shows doctors are “more likely to “diagnose physical injuries among poor families as ‘abuse’ and to diagnose them as ‘accidents’ among affluent families.”\textsuperscript{49} Ordinary members of the community perpetuate a prejudice against indigent people that facilitates state actions. Bridges argues the conflation of poverty with immorality makes it easier “for the state to have little ambivalence as it goes about the brutal task of intervening in, breaking up, and, in some cases, disbanding families.”\textsuperscript{50}

To illustrate the lack of privacy that poor pregnant women and mothers experience, Bridges highlights regulations in states such as California and New York mandating “screenings

\textsuperscript{46} Bridges, The Poverty of Privacy Rights, 95, the direct quote being a citation of Bailey 2014, 1557). As Bridges emphasizes, race important plays a role in stop and frisk policing as well: “police over-stopped black and Hispanic citizens relative to their crime participation, well in excess of their white neighbors’ (Fagan and Davies 2000, 482),” Bridges, The Poverty of Privacy Rights, 97.

\textsuperscript{47} Bridges, The Poverty of Privacy Rights, 94-97.


\textsuperscript{50} Bridges, The Poverty of Privacy Rights, 117.
that all recipients of Medicaid-subsidized prenatal care” to which women on private healthcare plans would not be subject. Such screenings assess their “psychosocial functioning,” “social support system,” “history of domestic violence sexual abuse, or depression,” “history of homelessness,” and other personal experiences. Yet even if women do not make use of public benefit programs such as Medicaid or Temporary Assistance for Needy Families (TANF), they are still at a higher risk of being subject to the state gaze in the form of investigation from Child Protective Services, which uses a schema for child neglect that tends to conflate it with the characteristics of life in poverty.

Although Bridges’ documented instances of state surveillance and state intervention over individuals and into family life, including the separation of families, is injurious in itself and in violating the basic liberties and autonomy of individuals, Smith’s insights help draw out how increased scrutiny functions as a public shaming mechanism that risks exacerbating any emotional distress individuals may feel about their daily lives as well as inducing feelings of self-doubt about their own moral character. Presumed by state and private spectators to be prone toward criminal and immoral behavior, the problem is not merely that individuals are being socialized into a certain lifestyle, but are being subject to undeserved feelings of blame and shame that can harm their senses of self-worth and beliefs regarding their own moral capacity.

Additionally, when women are subject to Medicaid interrogations of their sexual histories, including history of sexual violence, they are compelled to expose potential trauma, feelings of shame, and a devalued reputation; this compulsion may be itself reminiscent of “unpardonable” injuries they are being asked to recall. We need not to depend solely on Smith’s

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suggestive, if underdeveloped, references to social censuring of rape victims to explore the particularly distressing aspects of being pressured to divulge experiences of sexual trauma; contemporary psychologists posit that feelings of shame may even be a “hard-wired script” with a set of consequences triggered during a traumatic event, especially during certain kinds of experiences “associated with disempowerment” and a “breach of the intimacy barrier, such as interpersonal violence.”\(^{53}\) We may interpret our feelings of shame in response to a traumatic event as a signal that we have lost our value to others.\(^{54}\) In order to salvage social worth, individuals may feel the need to hide deeply traumatic experiences from others, closing themselves from the possibility of sympathy. Even private spaces designed around therapeutic disclosure can be difficult for survivors, let alone state-regulated interviews or public engagement.

To live under incessant suspicion of wrongdoing and immorality in these ways is to feel like, and at times embody, Smith’s innocent man, doubting his moral character and capacities in light of the image of himself projected onto him by others. Additionally, when revealing deeply personal and potentially traumatic experiences, an individual can feel shame and uncertainty despite her status as an individual deserving of sympathy. Society’s judgments of undeserved blame may have the effect of enervating the individual’s impartial spectator both in its status as a source of self-confidence and its role as a resource for personal decision-making. And, to go

\(^{53}\) Deborah A. Lee, Peter Scragg, and Stuart Turner, “The Role of Shame and Guilt in Traumatic Events: A Clinical Model of Shame-Based and Guilt-Based PTSD,” *British Journal of Medical Psychology* Vol. 74, (2001), 451–466, 454, citing Nathanson 1992. This obviously veers into difficult territory by raising the question of whether feelings of shame an individual may associate with an experience of interpersonal violence are socially induced or somehow more “natural.” Some responses may have been developed before self-consciousness in order to regulate “competition, social rank and status behavior,” a major theme of Smith’s work (Deborah A. Lee et al, 454 citing Gilbert and McGuire 1998).

beyond Smith’s moral philosophy, the unequal experiences of suspicion, censure, and shame
debilitate the sense of communal belonging, sovereignty, and equality of individuals upon which a robust democracy depends. Whether it is stop and frisk or Medicaid interrogations that signal to a pregnant woman “the state is trying to determine whether or not she will be a bad mother,” interventions into privacy signal to individuals that the political community does not value them as equal members.\textsuperscript{55} Such individuals may be prone to distrust the state and to feel “disenfranchised.”\textsuperscript{56} In this manner, the moral psychological harms of internalized shame and self-doubt also contribute to democratic disempowerment.

\textit{Conclusion}

Teasing out the tensions between Smith’s accounts of actual spectators and the ideal impartial spectator who can provide the individual a voice to counter to the judgment of public opinion reveals sensitivities to the way in which compelling people to expose themselves to society and the state risks exacerbating feelings of distress and subjecting them to public shame. These may have the effects of degrading their faith in their own moral characters. While Smith does not synthesize his insights on how harshly people judge the poor with his insights regarding the misery of the innocent person accused of a crime, contemporary scholarship supports the notion that the poor people may find themselves more often scrutinized by other members of the community and by government institutions. Furthermore, state interventions against privacy include the moralization of women’s sexual histories and the forced divulging of experiences of sexual violence that they may find psychologically distressing.

Smith’s sensitivity to the public exposure of the poor is consistent with other research on Smith’s writings on economic inequality more broadly. Although Smith was committed to the

\textsuperscript{55} Bridges, \textit{The Poverty of Privacy Rights}, 112-113.
\textsuperscript{56} Bridges, \textit{The Poverty of Privacy Rights}, 113-114, citing Roberts 2003.
impartial execution of the rule of law, he exhibited partiality toward policies that would benefit the working poor and minimize the burden they would have to bear if “things go wrong.”\textsuperscript{57} He may have developed a theoretical partiality towards the poor in order to counteract the partiality towards the wealthy that he observed prevailing in reality, including the influence of merchants over government policies and laws that served to “oppress the poor.”\textsuperscript{58} In other words, Smith may have sought to balance out the asymmetrical advantages of the wealthy in order “to produce more equal treatment of all” and to correct biases by “introducing a countervailing bias.”\textsuperscript{59}

However, the problems of public exposure are not merely institutional or legal; it is not only the state that disproportionately scrutinizes the poor, but ordinary people who judge, shame, and report others to authorities. Although the lack of privacy rights of the poor is evidenced by regulations and reinforced by case law, Bridges emphasizes it is a problem that cannot be resolved simply through legal change but necessitates changes in cultural discourse and perceptions of poverty.\textsuperscript{60} This is similarly the case with issues surrounding survivors of sexual violence, wherein grassroots movements like #MeToo seek to “de-stigmatize the act of surviving”\textsuperscript{61} and have contributed to increased public discourse regarding rape culture. Entrance into the public stage to change culture, discourses, and policies requires overcoming

\textsuperscript{57} Eric Schliesser, \textit{Adam Smith}, 202-203, 224.
\textsuperscript{59} Schliesser, \textit{Adam Smith}, 203, 208.
\textsuperscript{60} Bridges, \textit{The Poverty of Privacy Rights}, 63.
psychological difficulties; theorizing these difficulties and highlighting them in public discourse may be important to help readjust actual spectators’ reactions to such exposure.

Smith similarly indicates the extent to which a good society relies on the proper formation of moral character and judgment. However, while he may help elucidate the problems posed by activities of spectatorship, Smith’s emphasis on moral formation may not be enough. Rather than offer political or institutional solutions, or advocate for substantial changes in cultural discourses, Smith relies on the development of the impartial spectator as a necessary voice to harken all individuals to consider the fundamental equality of each other and to help guide them towards just behavior.

Smith’s account is also insufficient for providing direct resources for resolving the actual problem injustice where innocent people are accused, convicted, or killed. Smith hopes the unjust conviction of an innocent man accused of a crime “happen very rarely in any country” (TMS III.2.11, 120), but he admits it continues in “well-administered states.”\(^6^2\) He also suggests another persistent problem might be that “the established opinion of the innocence” of a person’s manners may actually get truly guilty parties off the hook (TMS.III.5.8, 167). His ultimate faith that, in general, most people who are judged guilty are judged correctly (TMS III.5.8, 167) appears particularly naïve juxtaposed against recent discussions in the American criminal justice related to racial discrimination in policing highlighted by the Black Lives Matter movement.

In the long run, correcting prejudices, social stigmas, and moral constructions relating to experiences such as poverty and sexual violence, can be crucial to help improve the privacy of individuals and their experiences of visibility, but how ought the awareness of the harms of public exposure influence legal policy or institutional design? We may take inspiration from

Smith’s anxieties and blend them with the approach Schliesser attributes to his economic policies. That is, just as Smith may have sought to counteract the advantages of the wealthy in political and economic systems by attending to the well-being of the working poor, we ought to design policies that relate to the surveillance and regulation of the lives of ordinary people in such a manner that they specifically counteract the disadvantages that different populations face when publically exposed due to the effects of economic inequality and other potential sources of social stigma. As it continues to grapple with implications of 21st century technological development, privacy law ought to be sensitive to various forms of psychological and reputational harms of compelled public exposure, which can be justified by a concern for the moral autonomy of individuals.63 Despite the potential hostility of the public, all of these people desire sympathy and love; protecting their control over the terms of how they reveal themselves to others and their access to more discreet and sympathetic audiences are crucial resources for mitigating their suffering. Equalizing the experiences of being seen on the public stage and minimizing the likelihood of individuals being subject to undeserved blame may be essential aspects of the broader goal of empowering individuals’ democratic political participation.

63 Daniel J. Solove’s conceptualization of “exposure” takes into account violations of privacy that harm an individual by revealing experiences that individuals have been socialized into concealing based on the judgments of others, including “grief, suffering, trauma” among others. Daniel J. Solove, A Taxonomy of Privacy, 154 U. PA. L. REV. 477 (2006), 534.
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