

# Media and invasion of privacy

Law



**ASSIGN  
BUSTER**

LAGOS STATE UNIVERSITY SCHOOL OF COMMUNICATIONS  
A TERM PAPER  
SUBMITTED IN PARTIAL FULFILLMENT OF THE COURSE: ETHICS AND  
PROFESSIONAL PRACTISE (MAC 854) LECTURER: DR. JIMI KAYODE TITLE:  
MEDIA AND THE INVASION OF PRIVACY BY AKANDE ADEFEYISAYO  
ADEBOLARINWA • SUBMITTED ON 30th JANUARY, 2010 INTRODUCTION

Media practitioners possess the function of gathering, processing and disseminating news items to a heterogeneous large audience which often times not done with sound moral judgement in mind lands them into pool of troubled waters.

Celebrities, politicians and other sought-after sources of news have over time expressed justifiable anguish over the diminishing aspects of their lives that are no longer free from prying eyes and publication from the press. They routinely assert that members of the media violate their privacy based strictly on their need to publish any news story that comes their way for the main purpose of profit and simply can not distinguish what type of information is private, public or newsworthy.

Journalists, however, often possess diverse concepts of privacy and newsworthiness, and know that the issue is more complicated based on the fact that reporting news stories in a way that serves and informs the public will often require publicizing details or displaying images that will mortify or anger someone. To make privacy issues even more complicated for journalists, courts constantly redefine what is private based upon interpretations of the elusive legal standard of a "reasonable expectation of privacy." ( [www.winning-newsmedia.com/privacy/](http://www.winning-newsmedia.com/privacy/) ) " The U.

S. Supreme Courts scolding of the media in the 1999 "ride along" cases for a perceived inattention to the privacy rights of the people featured in the news most likely reflects the current attitude of many judges and lawmakers and, thus, underscores the importance for journalists to be aware of general privacy principles. " (www. associatedcontent. com/topic) The intrusion and publication of private images can expose journalists to overwhelming financial liability if a court determines that a news organization has invaded a person's privacy.

The invasion of another's privacy is a tort, meaning a civil wrong against another that results in injury. A privacy tort occurs when a person or entity breaches the duty to leave another person alone. When reporters intrude on a person's privacy and cause emotional or monetary injury, they may be forced to pay damages. To avoid lawsuits, journalists must know how the law operates while seeking to balance the competing interests of the press and the public against the privacy interests of the subjects of the reports.

Journalists often run contrary of this tort through the process of gathering information. Actions that may violate this privacy right include intrusion onto private property, concealed observation and the deceptive access into private areas. Conduct that invades privacy may also violate the criminal law. In general, courts have held that journalists must obey all relevant laws. In *Cox Broadcasting Corp. v. Cohn*, 420 U. S. 469 (1975) " the U. S. Supreme Court noted that in privacy tort, claims of privacy most directly confront the constitutional freedoms of speech and press". www. definitions. uslegal. com) This study provides a universal explanation of each privacy tort and related causes of action. The privacy facts tort presents the unsettling <https://assignbuster.com/media-invasion-of-privacy/>

circumstances in which journalists may be liable for monetary damages for coverage of news item. In several cases the Supreme Court has held that " where a newspaper publishes truthful information which it has lawfully obtained, punishment may lawfully be imposed, if at all, only when narrowly tailored to a state interest of the highest order. *Florida Star v. B. J. F.* , 491 U. S. 524, 541 (1989). Although the Supreme Court has prevented states from punishing journalists who published legally obtained names of juvenile offenders and rape victims, the Court has not absolutely rejected the private facts tort in this context. Although crimes such as rape are newsworthy and newsworthiness is a defence to a private facts suit, not all courts have agreed that the identity of a rape victim is newsworthy.

Apart from news story either in the broadcast or in the print medium, photography has also been observed as posing some inimitable problems in privacy law, broadly, the legal analysis for invasion of privacy through images parallels the analysis for invasions through words. Essentially, the scope of this study is simply to analysis the fundamental nature of privacy laws, the various types that a mass media practitioner can run afoul of in the course of his or her duty and its implication for the society as a whole.

Emergence of Privacy Laws:

Concerns about intrusive newspaper reporting were mainly the beginning of the law of privacy. At that time, metropolitan daily newspapers used a variety of sensational information to attract potential readers. Media practitioners often played out the lives of the affluent and famous on the pages of their newspaper, permitting their readers to vicariously enjoy the wealth and the status of the celebrity. It was the kind of journalism now <https://assignbuster.com/media-invasion-of-privacy/>

commonly referred to as “ yellow journalism” that drove two Boston lawyers, Samuel D.

Warren and Louis Brandeis to use the pages of the Harvard Law Review to recommend an officially documented right to privacy titled “ The Right to Privacy” in 1890. Thus, their enterprise can be justifiably referred to as the source from which the law of privacy sprouted from. In their words as cited in Pember & Calvert, 2006: To satisfy a prurient taste the details of sexual relations are spread broad-cast in the columns of the daily papers. To occupy the indolent, column upon column is filled with idle gossip, which can only be procured by intrusion upon the domestic circle.....

The common law has always recognised a man’s house as his castle, impregnable, often, even to its own officers engaged in the execution of its commands. Shall the courts close the front entrance to constituted authority, and open wide the back door to idle or prurient curiosity? Warren and Brandeis strongly proposed that people should be able to go to courts to stop such unwarranted intrusions and also to secure monetary damages for the hardship or emotional distress they suffered from prying and from publication of private materials about them.

The question of when the coverage and reporting of news became an invasion of privacy is a difficult one, especially for photographers and videographers. Consequently, the combination of a lack of clear definitions of privacy standards and an acceptance of degree of privacy puts media practitioners in a precarious position. In Sanders v. American Broadcasting Cos. , Inc. , 978 P. 2d 67 Cal. 1999, “ the California Supreme Court held in

<https://assignbuster.com/media-invasion-of-privacy/>

1999 that even an employee who holds a conversation in an open office space and overheard by co-workers can pursue an invasion of privacy claim if that conversation is recorded by a reporter's hidden camera.

The court rejected the notion of privacy as an “ all-or-nothing” concept and described an “ expectation of limited privacy” as follows: • A subjective expectation of privacy is an opinion of a person that a certain place or situation is private. • An objective, legitimate or reasonable expectation of privacy is an expectation of privacy recognized by society Under different circumstances, however, courts have established that news media are justified in doing what their subjects may feel is invasive. ( wikipedia: 2002)

Definitions:

According to the United Nations' Universal Declaration of Human Rights Resolution 219A (III), Article 12 of 10 December 1948 as cited in Malemi (2002: 163): No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks. Privacy refers primarily to a person's right to be left alone by the media, not necessarily a physical intrusion into one's private property or personal space.

Invasion of privacy charges are usually presented in a civil lawsuit against media outlets that have crossed a perceived line into a celebrity or other public figure's private life, or have used his or her likeness or name in an unauthorized public manner Privacy law is the area of law concerned with the protection and preservation of the privacy rights of individuals.

<https://assignbuster.com/media-invasion-of-privacy/>

Increasingly, governments and other public as well as private organizations collect vast amounts of personal information about individuals for a variety of purposes.

The law of privacy regulates the type of information which may be collected and how the information may be used. The Right to Privacy: According to the 1999 Constitution of the Federal Republic of Nigeria, chapter IV, Section 37 on the right to private and family life says: " Citizens have right to privacy of themselves, their homes, correspondence, telephone and telegraphic communications. " A violation of this rights amounts to invasion of privacy. Remedies can then be pursued in the courts when anyone goes contrary to the above provisions.

The right of privacy is a common-law cause of action that is a recent legal development. The U. S. Constitution contains no direct references to the right of privacy, although the Fourth Amendment states: " The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated... " The right of privacy competes with the freedom of the press as well as the interest of the public in the free dissemination of news and information, and these permanent public interests must be considered when placing the necessary limitations upon the right of privacy.

The First Amendment states: " Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press... " "[pic][pic] Invasion of privacy, then is the intrusion into the personal life of another, without just

cause, which can give the person whose privacy has been invaded a right to bring a lawsuit for damages against the person or entity that intruded. It encompasses workplace monitoring, Internet privacy, data collection, and other means of disseminating private information". Photographers' guide to Privacy, 2003). The wrongful intrusion into a person's private activities by other individuals, the media or by the government has generally been defined as invasion of privacy. Privacy is invaded when one intentionally intrudes, physically or otherwise, upon a person's solitude or into his private area or affairs. Invasion of privacy is considered a violation of tort law and can be litigated inside the civil courts for monetary damages.

Recently, invasion of privacy has taken on even greater meaning with recent technological advances. Bussian & Levine 2004 opine that: Whether an article or broadcast is newsworthy, whether the information was gathered in an objectionable fashion, whether truthful information is nonetheless highly offensive -- all are considerations in weighing individuals' claims against the news media. Invasion of privacy is a tort, a civil wrong, which can lead to jury trials and potential claims for compensatory and punitive damages.

It also places judges in the unfamiliar and uncomfortable role as " editors" of last resort. Celebrities are not protected in most situations, since they have voluntarily placed themselves already within the public eye, and their activities are considered newsworthy. Categorically, invasion of privacy or the intrusion into the personal life of another, without just cause, can give the person whose privacy has been invaded a right to bring a lawsuit for damages against the person or entity that intruded.

Folarin, 2005: 155 also agrees that the right to privacy is a legal means by which consumers can control media content through suits instituted against the media in defence of their right relating to invasion of privacy which includes insulation from needless publication of private matters. Also that people can sue any media that uses their names falsely. He asserts that the people who have little or no chance of winning most of the suits are acknowledged public figures who are generally assumed to have lost their to privacy by taking up public office or otherwise become public by being involved in a newsworthy act or incident.

In distinguishing invasion of privacy among other claims facing the media, unusual situations involving crime victims and witnesses and also photographs of virtually anything visible in a public place do not give rise to actions for publication of private facts. Also facts that give rise to a false light claim may support a defamation claim while injury to reputation is not required for a false light claim. The false light tort aims primarily to protect against emotional distress rather than to protect one's reputation.

Based on First Amendment of the US constitution concerns, and the similarity between the claims, some states have not been persuaded to recognize the false light tort. However, public personalities are not protected in most situations, since they have placed themselves already within the public eye, and their activities (even personal and sometimes intimate) are considered newsworthy and are perceived to be of legitimate public interest.

Dimensions of Invasion of Privacy: ) Intrusion on one's solitude or into one's private affairs includes:

- The Home: A person's home gets the highest protection from the courts. Entering a house or apartment without

permission of the occupant or, in some circumstances, the police, can be considered as an unlawful intrusion. • Photographs and Tape Recording: Taking photographs of a person or his property in a private place may be an invasion of privacy. Tape recording a person without his consent may also provoke damage awards. ) Public disclosure of embarrassing private information such as: • Personal Matters: Details about a private person's sexual relationships, the contents of personal letters, private facts about an individual, or other intensely personal matters are off-limits to the news media unless they are considered as absolutely newsworthy. • Newsworthiness: Even truthful accounts are actionable if they contain highly offensive details which are not of legitimate concern to the public. ) Publicity which puts him/her in a false light to the public: • Fabrication: Ascribing quotes or fictionalizing actual events can lead to invasion if a person is portrayed in a false light before the public. • Photographs: Using photographs or films to illustrate a story that implies falsely that a person is involved in a disreputable incident. d) Appropriation of one's name or picture for personal or commercial advantage such as: • Advertising: The unauthorized use of a person's name or photograph in an advertisement is another immense subject in invading people's privacy. • Property Rights: This happens when the press offers to give away unauthorized broadcasts or photographs of a performance. The Supreme Court in the United States has ruled that there is a limited constitutional right of privacy based on a number of provisions in the Bill of Rights and subsequent amendments. This includes a right to privacy from media surveillance into an area where a person has a "reasonable expectation of privacy" and also in matters relating to

marriage, procreation, contraception, family relationships, child rearing and education.

However, records held by third parties such as financial records or telephone call records are generally not protected unless a specific federal law applies. The court has also recognized a right of anonymity and the right of groups to not have to disclose their members' names to media agencies. (www.answers.com) Generally, it's been considered that one ought to have a reasonable "expectation of privacy", meaning: i.

A place where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed or filmed by another; or ii. A place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance. Given the similarity to voyeurism, an adjudicator might find that placing a hidden camera in a certain location may amount to the torts of indignation or deliberate infliction of emotional distress.

Invasion of privacy laws are usually broken into four separate categories highlighted earlier including intrusion, appropriation, false light and public disclosure of embarrassing facts. Intrusion of Solitude: Intrusion of solitude, seclusion or into private affairs is an arm of invasion of privacy done by spying on or intruding upon another person where that person has the expectation of privacy. Places that a person ought to have an expectation of privacy are usually in a home or business setting. Consequently, people who have become public figures do not have the same expectation of privacy.

A media practitioner, who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns, is subject to liability for invasion of privacy, if the intrusion would be highly offensive to a reasonable person. To be liable for intrusion upon seclusion or solitude, the plaintiff must prove the following elements: Invasion of a secluded place or privacy: this happens when the defendant is alleged to have invaded the plaintiff's personal or private space. This could be determined by: Physical intrusion into a place where the plaintiff has secluded himself. ) Use of the defendant's senses to eavesdrop or spy in order to oversee or overhear the plaintiff's private affairs or b) Some other form of investigation or examination into plaintiff's private concerns. Objectionable intrusion: this is the type of intrusion that would be highly offensive to the ordinary reasonable person. • Invasion of private affairs or matters: the interference with the plaintiff's privacy must be substantial (however, if the event reported occurs in public, there is no expectation of privacy).

Other examples of intrusion upon privacy include placing microphones or cameras in someone's bedroom or hacking into their computer. Society does not expect a journalist to place wiretaps on a private individual's telephone without his or her consent. Opening someone's mail is also considered to be intrusion of solitude, seclusion or private affairs. The information gathered by this form of intrusion need not be published in order for an invasion of privacy claim to succeed. Trespass is closely related to the intrusion tort and may be claimed simultaneously.

Intrusion claims against the media often centre on some aspect of the newsgathering process. This tort may involve the wrongful use of tape recorders, cameras or other intrusive equipment. Trespass also can be a form of intrusion. An actionable claim for intrusion may arise whether or not a news story is published or aired. (A photographer's guide to privacy, 2003)

Appropriation of Name, Likeness or Identity: The appropriation of a private person's name, likeness or identity by a person or company for commercial gain is prohibited under the invasion of privacy laws.

However, this law pertains to a private figure and not a public figure or celebrities, who have fewer and different privacy rights. The Restatement (Second) of Torts Section 652C (1977) defines appropriation of name or likeness as follows: " One who appropriates to his own use or benefit the name or likeness of another is subject to liability to the other for invasion of his privacy. " (Bussian & Levine, 2004) Appropriation of name or likeness occurs when someone uses the name or likeness of another for their own advantage.

Action for misappropriation of right of publicity protects against commercial loss caused by appropriation of an individual's personality for commercial exploitation. It gives the individual exclusive right to control the commercial value of his or her name and likeness to prevent others from exploiting that value without permission. It is similar to a trademark action with the person's likeness, rather than the trademark, being the subject of the protection. The appropriation category of invasion of privacy prevents others from using a person's name or identity for commercial gain.

Ordinarily, the news media do not run afoul of this form of tort. However, seemingly harmless news coverage or advertisements can lead to lawsuits. This law came into existence from a couple of court decisions in the early 1900's where a private person's photograph was being used without consent for advertising purposes and without them receiving any monetary reward for using their pictures in print. The court recognized that the common law right to privacy including a person's identity had been violated by the unauthorized commercial use.

In later cases, a person's voice was also included. Public figures, especially politicians do not have the same right to privacy as regards to appropriation of name, likeness or identity since there is much less expectation of privacy for public figures. Celebrities may sue for the appropriation of name, likeness or identity not on grounds of invasion of privacy, but rather on owning their own right to publicity and the monetary rewards (or damages) that come from using their likeness. False Light:

As cited in Bussian , (2004) The Restatement (Second) of Torts Section 652E (1977) provides that: One who gives publicity to a matter concerning another that places the other before the public in a false light is subject to liability to the other for invasion of his privacy, if the false light in which the other was placed would be highly offensive to a reasonable person, and the actor had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the other would be placed.

Creating a false image for an individual may constitute an invasion of privacy. This is an aspect of invasion of privacy that deals with untruthful

publication. In this instance, the offended person is placed in a false light through misleading descriptions, confusion of the person's identity with another, fictionalization of actual events, or photographs taken out of context. Its features are: It gives an individual unreasonable and highly objectionable publicity that attributes false characteristics, conduct or beliefs to him or her.

The said material must be published to a third person or publicised to a large audience or to so many persons that the matter must be regarded as substantially certain to become one of public knowledge. The invasion of privacy tort of false light is upheld in court when the plaintiff can prove that the defendant publicize the plaintiff in such as way that it would be highly offensive to a reasonable person. However, it is pertinent to note that this tort shares many similarities with libel and many courts have trouble separating the two.

**Public Disclosure of Embarrassing Private Facts:** Public disclosure of embarrassing private facts becomes an invasion of privacy tort when the disclosure is so despicable that it becomes a matter of public concern and it outrages the public sense of decency. In this invasion of privacy tort, the information may be truthful and yet still be considered an invasion if it is not newsworthy, if the event took place in private and there was no consent to reveal the information. The Restatement (Second) of Torts Section 652D (1977) provides that: One who gives publicity to a matter concerning the private life of another is subject to liability to the other for invasion of his privacy, if the matter publicized is of a kind that (a) would be highly offensive to a reasonable person, and (b) is not of legitimate concern to the public.

<https://assignbuster.com/media-invasion-of-privacy/>

(ibid) The media can also be held accountable for damages for truthful publication. It is considered that the antisocial article or broadcast exposes to public view certain highly offensive matters that are not considered newsworthy.

In order for an offended plaintiff to prevail, he must prove that the publication was: a) Extremely offensive to a reasonable person, b) And that the matters were not of legitimate concern to the public. The latter requirement may give the news media what might be called the newsworthiness defence. Though, the legal concern of the public in a matter is not presumed by the matter's publication. Thus, a plaintiff may prove that an article is lacking in newsworthiness despite its publication.

Below is a good example: Case study: Publication of Embarrassing Private Facts Nollywood actress and 2005 Gulder Ultimate Search star, Anita Hogan, was reported to have lost a three-month-old pregnancy following the shock caused by the publication of her nude pictures in Daily Sun, an evening newspaper in 2006. Anita, according to her lawyer, was engaged to be married to a white man whose nude pictures were published along with hers in the Friday, August 11th edition of the newspaper.

Police detectives in Lagos eventually arrested one Emeka Nwankwo, a computer engineer who allegedly circulated the shocking pictures to the media, after the actress rebuffed his alleged bid to blackmail and extort money from her over the lurid shots. The actress through her counsel explained that the computer where the controversial photos were saved developed a fault and had to be taken for repairs, from where they were

allegedly stolen. The shots were said to have been taken by Anita's fiancé and stored on her personal computer.

Emeka allegedly approached her to pay him N500, 000 or risk getting her pornographic pictures with the white man published in newspapers. The actress was said to have turned down the request, which she regarded as blackmail, and Emeka allegedly went ahead with his threat to circulate the pictures to media houses. A petition written by Anita's lawyer, Mr Tony Dania of Dania and Associates, to the Deputy Commissioner of Police SCID, Lagos, actually admitted that the pictures in circulation were those of the actress but stressed that they were Anita's private pictures with her fiancé, stolen and doctored to suit the purpose of blackmail. The aforesaid publication is a criminal invasion of our client's privacy. From the story the suspects published, it was obvious that there was blackmail and attempts to extort money from our client. They stole some of our clients' pictures, used the computer to improvise and superimpose further images on them, called our client and demanded for money. " The white man in the published pictures is a true resemblance of Anita's fiancé who works in a very decent organisation. In fact, they have done the pre-marriage formal introduction.

Anita, who lost her dad recently, was actually carrying the baby of the white man, but the shock of the aforesaid inglorious publications made her to lose her pregnancy between Saturday/Sunday, August, 12, 13, 2006," the petition alleged. CONSTITUTIONAL PROVISIONS Misappropriation: There are statutes that govern the right of publicity. These laws have two purposes: 1) To protect ordinary individuals from the mental anguish that may accompany

the undesired commercial use of their name or image, and 2) To protect the property interest that celebrities develop in their identities.

Under these laws the use of a relevant picture to illustrate a newsworthy article will generally not lead to liability. The unauthorized use of a celebrity's picture in an advertisement often will. False Light: A photograph or videotape by itself will rarely place a subject in a false light. Rather, the accompanying text, caption, or voice-over could be misleading and portray the person in a false context. However, an accurate depiction of a person in a publication the person finds offensive does not, in itself, state a false light claim. Private Facts: The private facts tort presents unsettling scenario in which media practitioners may be liable for money damages for reporting the truth. In several cases the US Supreme Court has held that " where a newspaper publishes truthful information which it has lawfully obtained, punishment may lawfully be imposed, if at all, only when narrowly tailored to a state interest of the highest order. " Florida Star v. B. J. F. , 491 U. S. 524, 541 (1989) as cited in Bussian & Levine 2004. Although the Supreme Court has prevented states from punishing journalists who published legally obtained names of juvenile offenders and rape victims, the Court has not absolutely rejected the private facts tort in this context.

Although crimes such as rape are newsworthy not all courts have agreed that the identity of a rape victim is newsworthy. Intrusion: Intrusion always comes into play through the process of gathering information. Here, the subsequent publication of the information is not required. Actions that may violate this privacy right include trespass onto private property, hidden surveillance, and the fraudulent entry into private areas. Conduct that

<https://assignbuster.com/media-invasion-of-privacy/>

invades privacy may also violate the criminal law. In general, courts have held that journalists must obey generally applicable laws.

Trespass is the illegal entry onto private property. If the owner or person in charge of private property orders a photographer to leave, the photographer should leave or be prepared to face a trespass charge. Photographers who accompany police onto private property are not necessarily immune from liability. Camera operators should also be aware of federal and state laws that govern the taping of oral communications. The federal wiretap statute prohibits the interception of oral communications unless one party such as the journalist consents to the recording.

And there have been instances where barring the taping of oral communications exist unless all parties consent to the taping. Privacy and the Internet: “ The US Congress and its state legislatures across the nation have considered or are considering scores of bills aimed at reducing public concern about the ability of Internet users to protect their private lives as they surf the World Wide Web. ” (Pember & Calvert, 2006). Despite the positive usage of the internet, there have been growing concern among users about the technology considering the ease with which third parties can collect data about users and what the data collectors can do with the material they have gathered. However, the Nigerian Government have not woken from its slumber towards the direction of giving adequate protection to its citizens, properties and of course, rights. Defences available to Privacy Suits: Several defences are available to photographers and news organizations accused of invasion of privacy: Legitimate concern: defendant in a disclosure can challenge the plaintiff's proof of the basic elements of intrusion.

<https://assignbuster.com/media-invasion-of-privacy/>

For example, the defendant may be able to show that the facts that the defendant disclosed were matters of legitimate public concern. If a person is involved in a matter of legitimate public concern, a "newsworthy" event, the person becomes a public figure with respect to that event, regardless of the person's intentions or desires. If a person is a public official or public figure, his or her reasonable expectations of privacy are dramatically reduced. As a practical matter, a public official or public figure cannot successfully sue unless the invasion of privacy is outrageous or done with actual malice.

Consent: it is a voluntary agreement to a publication or permission to enter a private place to gather information. It could be expressed or implied. Allis (2009) opines that a person who accepts money or other considerations in exchange for the invasion of privacy is said to have sold his or her "rights." Though some defendants, such as prosecutors and government officials do have immunity if they are acting within the scope of their authority. Anything to be used in a commercial context, whether it is a photo taken in public or in private, must have consent, usually in the form of a model release.

Consent must be obtained from someone who can validly give it. Consent to enter a home may not be consent to photograph it. Consent exceeded can be the same as no consent at all. Although oral consent may protect the press from liability for invasion of privacy, written consent is more likely to foreclose the possibility of a lawsuit. However, a subject's subsequent withdrawal of consent does not bar the publication of the photograph. It simply means that the journalist may not assert consent as a defence if the subject later files suit.

Cornwell (2008) sums it by saying “ the more explicit the consent, the better the protection for the press. ” Newsworthiness: Is generally defined as what the public is interested in. According to Wulfemeyer (2003), if a story that includes legally obtained private information that is embarrassing to the plaintiff but the subject matter is of public concern, it would be difficult for the plaintiff to win the law suit because courts give wide latitude to the newsworthiness defence. Photographs taken in public places generally are not actionable.

Photographs of crimes, arrests and accidents usually are considered newsworthy and immune from privacy claims. Public places: if an event occurs in public view, they are almost always considered public and not private. Though public places defence have been considered not absolute. Public proceedings: Information obtained during public meetings, hearings or trials can be reported by a news organization. Public records: if information has been obtained from a document that is of a public record, it can not be deemed private.

**ETHICAL OBLIGATION** Momoh (2004) opines that as a rule a journalist should respect the privacy of individuals and their families unless it affects public interest in the following ways: • Information on the private life of an individual or his family should only be published if it impinges on public interest, • Publishing of such information about an individual as mentioned above should be deemed justifiable only if it is directed at: 1. Exposing crime or serious misdemeanour; 2. Exposing anti – social conduct; 3.

Protecting public health, morality and safety; 4. Preventing the public from being misled by some statement or action of the individual concerned.

**SUMMING UP** The Right of Privacy is a good measure to check media practitioners on inappropriate media content so a news medium while carrying out its function must at all time be concerned with the welfare of its consumer. A media practitioner must ensure the accuracy of his or her information and must be ready to make corrections and clarifications when necessary after publishing or broadcasting untrue information.

A media practitioner must at all time uphold the dignity of his or her profession comply with his or her professional codes and respect the human rights. A media expert must also recognise that gathering and reporting information may sometimes cause discomfort, so must seek ways to minimise the hurt. (Kayode, 2009). **REFERENCES** Allis. (2009). Invasion of Privacy---Appropriation. Retrieved September 19, 2009, from Lexis-Nexis database. Bussian & Levine. (2004). Invasion of Privacy: The Right “ to be left alone” Retieved September 18, 2009, from Lexis-Nexis database. Cornwell, C.

N. (2008). Freedom of the Press: Rights and liberties under the law. Retrieved September 18, 2009, from [http://www. abc. clio. com](http://www.abc.clio.com) Expectation of privacy (2002). Retrieved September 18, 2009, From [http://www. wikipedia. com](http://www.wikipedia.com) Folarin , B. (2005). Theories of Mass Communication: An Introductory Text. Abeokuta: Bakinfo Publication Invasion of Privacy (2003). Retrieved September 18, 2009, From [http://www. winningnewsmedia. com/privacy](http://www.winningnewsmedia.com/privacy) Kayode, J. (2009). Ethics and professional practise [Record] .

Lagos. Malemi, E. (2002). Mass Media Law: Cases and materials Lagos: Grace Publishing Incorporation Momoh, T . (2004). Nigerian Media Laws & Ethics Lagos : Efua Media Associates. Pember & Calvert. (2006). Mass Media Law Boston: McGraw Hill. Phtographers' giude to Privacy (2003), Retrieved September 18, 2009, From <http://www.rcfp.org> Wulfemeyer, K. T. (2003). Radio & TV Newswriting: A workbook Retrieved September 19, 2009, from Lexis-Nexis database.