



VOISIN LAW

Article 8 of the European Convention on Human Rights provides that each one of us has the right to respect for his or her private and family life, home and correspondence. Of course, this right is subject to proportionate and lawful restrictions.

As it says on the tin, one of the key aspects is the right to respect for the home and the right not to have one's homelife interfered with.

You will therefore appreciate the kerfuffle that was created in our office when reading a report in the Jersey Evening Post (our august daily newspaper) that was headlined: *"Naked neighbour's 'privates on show'"*.

Let me ask you these questions: have you ever wandered around your house in *"the nip"*? Have you ever woken up thirsty and legged it into the kitchen to get a glass of water *"in the buff"*? Has your child ever run around the house in his/her *"birthday suit"*? Let's be honest. I suspect that each and every one of you will have answered "yes".

The circumstances giving rise to the rather salacious headline in our local rag were as follows:

A gentleman was in his own apartment. It was midnight. The gentleman was *"au naturel"*. The lights to his apartment were on. The curtains were open. A neighbour spots him. Her reaction? It was not to draw her own curtains. She took a photograph of him. The neighbour also noted that the *"disrobement"* carried on for some 45 minutes and that the gentleman's private parts could clearly be seen. Frankly this is not surprising given the fact that he was *"in the all together"*. The neighbour's husband was awoken so that he too could view his neighbour's state of *"undress"*.

The naked man pleaded guilty to a charge of indecent exposure on the grounds that his actions were reckless. It was reported that he had no awareness that he could be seen by anyone and moreover he had no idea that his neighbours were watching and had taken a photograph of him. *"He thought what he was doing was in the privacy of his home"*.

The Magistrate found that the gentleman was reckless but accepted that there was no suggestion of any intention on his part to be seen by others. He was bound over for 12 months albeit (thankfully) the Court decided not to order a notification under the Sex Offenders Law.

Does your reaction to this mirror my own? Frankly, I was aghast.

William Douglas, an Associate Justice of the Supreme Court of the United States, said this: *"The free state offers what a police state denies - the privacy of the home, the dignity and peace of mind of the individual."*

This piece is heavily caveated by the fact that I am simply relying upon a report from the local newspaper. I was not in Court. Assuming that the report is accurate this seems a rather extreme response to what appears to have been an innocent event.

Upon discussing the rights and wrongs of this case with colleagues, I was reminded of the fact that one of the most popular comedies of recent times, Friends, had a character called *"Ugly Naked Guy"*. Ugly Naked



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Guy lived across the street from Monica and Rachel. In one particular episode, I recall that the friends thought Ugly Naked Guy was dead and started poking him with a giant “device”.

Of course there was absolutely no suggestion of inappropriateness or sinister behaviour by Ugly Naked Guy. Why would there be?

Is this crime an overreaction? Should we be concerned about this?

Whatever your view, one has to have sympathy with the “disrobed”. The fact that the Court confirmed that there was no suggestion of any intention on his part to be seen by others simply reflects the rather harsh consequences of midnight nudity in his own home. Regardless, he has been named and shamed.

Perhaps the bigger question is where society’s values are headed. Earlier this year in an interview with Time Magazine, Klaus Schwab, the Founder and Executive Chair of the World Economic Forum said this in response to the question “Are we also having a debate - or maybe a crisis - about how to organise big societies?” “Yes. Following World War II the world mostly shared values about human rights, democracy and so forth. Many believed then that Western liberal ideas would be universal. But today it is not the case that we share the same values. If you look at Russia, China and Turkey - and even inside our societies - people have different concepts about how to organise big societies. Typically in Western society, the individual is protected against the collective. But increasingly, the collective is protected against the individual. And even inside our own society, the question arises more and more about how much should you defend the collective against the individual? What is the right balance?”

To my mind this is the fundamental question. In the nanny state in which we exist and the ever increasing desire to satisfy “a collective”, are some of the laws that we create and implement now becoming too oppressive to the individual?

Or perhaps is this too big a leap? Do the rights of a guy “in the raw” at midnight in his own apartment in Jersey reflect the greater argument? Perhaps they do and that is the problem.