

Research on the Conflict and Coordination Between the Right to Privacy and the Right to Know Thoughts Caused by a Case

Yang Zhou^{1,*} Wei Xie¹

¹ School of Law and Society, Wuhan University of Technology, Wuhan, Hubei 430070, China

*Corresponding author. Email: 675318602@qq.com

ABSTRACT

The conflict between the right to privacy and the right to know has always been one of the important research topics in the field of marriage and family law. The Civil Code promulgated on May 28, 2020 only stipulates in Article 1,043 (2), Article 1,053 and other articles the right to know, such as the obligation of loyalty between husband and wife and the obligation to inform of serious diseases before marriage, however, there are no special provisions on the privacy of husband and wife, only general provisions. Due to the particularity of the relationship between husband and wife, how to coordinate the contradiction between the privacy and the right to know has become a difficult problem. In marriage, both parties should enjoy the right to know about their feelings, life and other behaviors, and the privacy right of the individual should be limited. The right to know about the privacy involving the interests of the husband and wife will not have a substantial impact on the privacy right of either party. Starting with a case, this paper studies the conflict, boundary and coordination measures between the right to privacy and the right to know between husband and wife. The purpose of this study is to clarify the boundary between the right to privacy and the right to know between husband and wife, so as to alleviate the conflict in real life and better maintain the stability and development of marriage.

Keywords: Relationship between husband and wife, The right to privacy, The right to know, Conflict, Coordination.

1. INTRODUCTION

The field of marriage and family has always been an important subject for many civil law scholars. The current divorce cases remain high, and one of the main reasons for divorce is the conflict and coordination between the right to privacy and the right to know. The existing laws and regulations, including the newly promulgated Civil Code have not made clear and specific provisions on this, and jurists have different opinions on the connotation and extension of this issue, which leads to inconsistent understanding of this issue in judicial practice, resulting in such situation where some of the same marriage and family cases have different judgments. Based on this, consulting a large amount of information and combined with understanding, the thesis will focus on the conflict and coordination between the right to privacy and the right to know between husband

and wife, hoping to be beneficial to Chinese legislation and judicial practice.

2. PROBLEMS RAISED BY THE CASE

Case description: In 2013, Wang and Zhang registered their marriage. They both work in corporations and have one son. After marriage, Zhang was assigned by the unit to go out to work. Miss Wang noticed that Zhang was very careful when answering the phone at home, and began to suspect, trying to find evidence. Ms. Wang successfully guessed the password into Zhang's mobile phone, placed a recording pen on the bedside table in Zhang's bedroom and recorded Zhang and other women's ambiguous voice. In April 2019, Wang filed a lawsuit with the Weiyang District People's Court, asking for a divorce from Zhang, giving her custody of their son, another

house and other shared property. The defendant did not agree to the divorce, and argued that what Wang said about his infidelity during the marriage was pure jealousy.

Court concluded: Wang and Zhang's marriage is a free love one, whose foundation is good. Wang submitted Zhang's mobile phone screen, mobile phone video to the court, Though they are couples, both still have the right of privacy as an independent individual in marriage. The plaintiff claims that the defendant has improper relationships with other women, but because the evidences that the plaintiff provided have violated the privacy of the defendant, the court considered them invalid ,therefore, the above claims of the plaintiff have no corresponding evidence and the court shall not support, rejecting wang's litigation request for a divorce.

One problem in this case is the conflict between an individual's right to privacy and the right to know from the other spouse. The controversy lies whether Wang, the wife, has the right to know about the evidence she submitted, including screenshots and recordings of her husband's phone. The weiyang District Court in Xi'an took the view that the privacy of an individual is inviolable and does not subdue the establishment of a marriage. The evidence Wang submitted was invalid because it violated Zhang's right to privacy and did not support Wang's claim. In this collision of rights, how to solve the conflict between the right to know and the right to privacy? Does one spouse have the right to know the other spouse's mobile phone password? How should the two rights be coordinated under the community of marriage?

Although the civil code originally wrote personality right in Part IV, and in Chapter VI the definition of privacy is clarified for the first time and several types of typical privacy infringements are prohibited, But today people are in the age of big data, their concept of marriage has changed and has paid more emphasis on the protection of their personal space, thus, the contradiction between husband and wife for the right to know and right to privacy is growing increasingly. In this context, the expansion of the right to know between husband and wife leads to the problem of how to limit the right to privacy, so it is particularly important to coordinate the conflict between the two. Article 1043 (2) of the Civil Code stipulates the obligation of loyalty between husband and wife, which protects this legal marriage relationship after the man and woman have established a marriage

relationship in accordance with the provisions and procedures of the law for the purpose of living together for a long time. And it has a legal effect on the spouse rights between the man and the woman, that is, both parties have a certain degree of right to know. Therefore, the scope of privacy rights between husband and wife should not be consistent with that of individual privacy. There are loopholes in the judgment of excluding evidence on the grounds of infringement of personal privacy in this case.

3. THE CONFLICT BETWEEN THE RIGHT TO PRIVACY AND THE RIGHT TO KNOW BETWEEN THE SPOUSE

3.1 Refutation That the Spouse Cannot Enjoy the Privacy of the Other Party

It can be seen from the above case that there is a conflict between the right to know and the right to privacy in a marriage relationship. As a basic personality right, the subject of privacy is a natural person, while the right of privacy between husband and wife is a special form of privacy, and the subject is a husband or wife. Its characteristics are mainly manifested in two aspects: one is the uniqueness of the subject. Marital privacy is part of the right to privacy. As the holder of the right, the role of others is particularly important. Any right to act or omit may harm their interests.

Husband-and-wife privacy should be regarded as a right between husband and wife, whose rights are enjoyed by the husband or wife, who is a special subject, and whose duty is directed at the spouse. That is, either party as a spouse exposes the other party's privacy, interferes with the other party's private life, and interferes with the other party's decision on personal affairs, which will cause the other party's privacy rights to be violated. The second is the narrowness of the privacy scope of husband and wife. The object of privacy is privacy, namely personal information, personal life field, and personal affairs. Privacy protected by the right to privacy is a private matter that is purely personal and essentially irrelevant to others, However, due to the intimacy between husband and wife, common interests are involved in many aspects. Therefore, compared with ordinary citizens, the scope of privacy between husband and wife is subject to many restrictions.

After the conclusion of marriage, the two parties of the marriage tend to live together. In this situation, due to the particularity of the relationship between husband and wife, one spouse has the right to know about what concerns their interests. It is a concrete manifestation of citizens' right to know in marriage, which is divided into the right to know the person and the right to know property. Article 1043(2) of the Civil Code stipulates the duty of loyalty between husband and wife;¹ Article 1053(1) stipulates the duty of notification of major diseases before marriage.² Husband and wife need to know some information about each other, such as each other's education, physical condition, occupation, living habits, property income, family background, social contacts and so on. As for ordinary citizens, these are the scope of privacy, but for husband and wife, it is different.

It is generally believed that what involves the common interests of other parties or the family does not belong to personal privacy between husband and wife, but belongs to the scope of the right to know. As either party to the marriage, one should be responsible for the family, take care of and support the other party, and shall not harm the interests of one spouse for the benefit of the third party, and the property within the marriage shall be shared. As the co-owner of the joint property, a spouse should have the right to know the joint property or business conditions of the spouse under the control of the other spouse, which is conducive to the proof of the parties in the event of a dispute, so as to prevent the legal rights and interests from being violated and better protect the property rights. The civil code emphasizes the necessity of the husband and wife to fulfill the duty of loyalty. In real life, bigamy, cohabitation of the spouse with others and other acts leading to divorce, the injured party has the right to get relief in accordance with the law. Due to the particularity of the relationship between husband and wife, the law gives one spouse the right to know about the other spouse's life contents. However, the right to know between husband and wife is a relative right during the marriage, that is, only under certain circumstances

for certain things, can one spouse have the right to know.

Some scholars tend to interpret the right to know between couples as a duty of loyalty. The author believes that this view is more one-sided. In daily life, husband and wife should jointly safeguard family interests and jointly shoulder the obligations of supporting the elderly and raising children. That is to say, the scope of the right to know between husband and wife involves the entire married life and revolves around marriage from beginning to end, not just referring to the narrow faithful obligations of husband and wife.

3.2 The Derogability of the Right to Privacy Provides Support for the Right to Know

The right to privacy and the right to know between a couple are corresponding concepts, and their scope is a trade-off relationship. The contents included in the scope of the right to know will no longer be protected by the right of privacy. Similarly, the other spouse does not have the right to know about the contents included in the scope of the right of privacy. Fundamentally speaking, the right to privacy and the right to know between husband and wife are contradictory and antagonistic rights. Rights are interests, and there is a one-to-one correspondence between the two. In the privacy of a couple, the personal privacy of a spouse refers to some information that is not willing to let the other party know, or the extremely quiet solitary space that is not willing to let the other party disturb, so as to hide their privacy as much as possible.³ [1] However, the spouse of the other party, as the subject of the right to know between the couple, will collect and obtain the information of the spouse as much as possible comprehensively, including the privacy of the other party naturally, so that the two rights conflict in real life.

Spouses enjoy a special identity relationship, have more understanding and attention to the other party than other ordinary people, and the degree of mutual privacy and disclosure should be greater than that of any other third person. The right to know about the privacy of a spouse does not materially affect the privacy of either spouse. Either spouse has the right to know; part of the right to privacy must be surrendered between the spouses,

1. Article 1043(2) of the Civil Code stipulates: "Husband and wife shall be loyal to each other, respect each other, and love each other; family members shall respect the old and love the young, help each other, and maintain an equal, harmonious, and civilized marriage and family relationship."

2. Article 1053(2) of the Civil Code stipulates: "If one party suffers from a serious illness, he should truthfully inform the other party before marriage registration; if the truth is not informed, the other party may request the people's court to cancel the marriage."

3. Liang Huixing. *General Doctrine of civil Law* (4th Ed.).[M] Beijing: Law Press.2011:165-170.

because one party's right to privacy may just be the other party's right to know.

3.2.1 *The Right to Privacy Is Derogable*

As an important personality right, the right to privacy is of great significance to the maintenance of personal dignity and personal freedom. ⁴ [2] Article 1032 of the Civil Code focuses on indirect protection of privacy, which protects citizens' right of reputation, right of portrait and personal information.⁵

In terms of nature, the right to privacy belongs to the scope of private rights, while the right to know has the characteristics of both public and private rights. Usually, the right to privacy has nothing to do with public interests, while the right to know has been closely connected with public interests since its formation. In the case of public interest and the legitimate rights and interests of others, if the public interest opposing the right to privacy is critical, then the right to privacy can be derogable and restricted, that is, the right to privacy is derogable and can be compromised to other rights that need priority protection, the right holders in the relevant unspecified scope can therefore reasonably get involved in the privacy of others to a certain extent.

Based on the derogability of privacy, it can be shown that one spouse's right to know the privacy of the other spouse does not conflict with the privacy of the other spouse. Some scholars worry that privacy will be impaired, but in fact, the above situation shows that this fear will not actually happen. From the above situation, we can know that this kind of worry will not happen in fact. Although in the marriage relationship, there are the common interests of family stability and the legal status of the other spouse. The individual's right to privacy is based on its derogation and needs to give way to it, but its abdication is not based on the complete disclosure of secrets at the price and its privacy can be well maintained. Therefore, the right of spouses to have the right to know the privacy of the other party involved in the interests of the spouse is legally and logically reasonable. One

4. Wei Zhenying. *Civil Law (Seventh Edition)* [M]. Beijing: Peking University Press, Higher Education Press, 2017: 651-652.

5. Article 1032 of the Civil Code stipulates: "Natural persons have the right to privacy. No organization or individual may infringe on the privacy rights of others by spying, intrusion, disclosure, disclosure, etc.. Privacy is the tranquility of a natural person's private life and a private space that is unwilling to be known to others, private activities, private information."

party shall not use the excuse of infringement of personal privacy to prevent the other party from exercising the right to know in order to protect the interests of the spouse.

3.2.2 *Transfer of Spouse's Privacy Interests*

The purpose of privacy rights is to protect citizens' private lives and personal information from being infringed. ⁶ [3] Privacy is focused on the protection of personal information. "Hidden" is to maintain the inner peace, with the characteristics of conservative, closed and self-control and to prevent private information from being obtained by others, leaving oneself in a disadvantageous position, thus bringing security risks to oneself. The concept of the right to know is more for the needs of social public interests. Compared with the negativity of the right to privacy, this right can only be realized through the active efforts of the parties concerned. The right to know focuses on "knowing", aiming at obtaining the information one should know, solving the problem of information asymmetry with the other party, and protecting one's own interests from infringement. The state guarantees the exercise of the right to know by protecting citizens' freedom of association, freedom of press, and freedom of speech. In terms of family relations, both spouses are not only of their own, but also of the family and society, and both have the right to know the mutual privacy of the couple. If the parties are both acting in their own interests, one party focuses on the right to privacy, and the other on the right to know, then the two rights will naturally conflict. Due to the particularity of the relationship between husband and wife, the protection of their privacy rights should no longer be equivalent to the protection of natural persons. In order to realize the spouse's right to know, the transfer of the spouse's privacy interests is required at this time. That is to say, the right of privacy between husband and wife should be surrendered to the need of the right to know between husband and wife to some extent. Human rights have always been associated with relief from the beginning. Certain rights are acquired from the fetus, which must be accompanied by appropriate remedies. The right to no remedy is void. In the same way, spouse rights that cannot be remedied are also void. To protect the right of spouse, it is necessary to guarantee the realization of the right remedy.

6. Yang Lixin. *On The Law of Personal Rights (Revised Edition)* [M] People's Court Press, 2002:678-679.

The right to know is the basis of exercising relief. For the relief of this right, it is necessary for one spouse to obtain evidence of the other's infidelity in order to safeguard the interests of his spouse. In terms of the need for relief, if the party whose spouse's rights and interests have been infringed wants to seek legal help, it is inevitable to prove its own claim, but there is no other way of remedy except for probing and spying on the other party. We cannot expect the party who has unfaithful behavior to admit the fact of infidelity voluntarily. And even if the illegality of the means violates the exclusionary rule of illegal evidence, it cannot be denied that the spouse can enjoy the right to know about the privacy of the other party involving the interests of the spouse. The law should indeed protect the privacy of individuals in marriage, but there are limits to that protection. The court must make a negative evaluation on the probe of some busibodies and the publicity and hype of some insiders; however, it is necessary for the court to support the spouse's exercise of the right to know and the judicial review caused by the spouse's seeking for judicial relief. Because only in this way can the law confirm that extramarital affairs are illegal, and the process of confirmation is a process in which the plaintiff produces evidence and is relatively open. From this, it can be seen that the importance of the right to know the privacy of the other party involved in the interests of the spouse.

4. THE BOUNDARY BETWEEN THE RIGHT TO PRIVACY AND THE RIGHT TO KNOW BETWEEN HUSBAND AND WIFE

In such a special relationship as marriage, the conflict between the right to privacy and the right to know in marriage is more complicated as both husband and wife have their own independent personality interests and their common marital interests. Based on the derogability of the right to privacy, it can be shown that one spouse's right to know the privacy of the other spouse concerning spouse's interests does not conflict with the other's keeping the right to privacy. Some scholars worry that the damage of privacy right will not happen in essence under this right attribute.

4.1 *The Distinction Between the Right to Privacy and the Right to Know*

During the duration of marriage, the distinction between the right to privacy and the right to know is relatively clear. In terms of personal information,

couples have the right to know each other's physical health, living habits, hobbies, salary and income, sexual proclivities, etc. Knowing each other will not constitute a violation of privacy, but the love experience before marriage is personal privacy. In personal life, personal body, private goods etc. do not belong to personal privacy between husband and wife. Yet regarding logs, paper letters, e-mails, chat records, photos, screenshots, etc., in addition to the aspects related to marriage and family interests that need to be transparent, other aspects are personal privacy, and the other party has the right to retain his privacy.⁷ [4] In terms of individual personal decisions, the husband and wife should respect each other and make consultation decisions in certain aspects involving the family interests of the other spouse, such as purchasing a house, choosing a career, etc., taking into consideration the feelings of the other party and focusing on family interests. Generally speaking, all matters involving the common interests of other spouses or the family no longer belong to personal privacy between the spouses, but belong to the scope of the right to know.

The Civil Code, which was promulgated on May 28, 2020, only provides for the right to know in article 1043 (2) and Article 1053 (1), such as the duty of loyalty between husband and wife and the obligation to inform of a serious illness before marriage. The conflicts have not been effectively resolved. Due to the particularity of the relationship between husband and wife, both parties have to transfer part of their privacy rights. The statutory nature of the above-mentioned obligations provides strong support for proving that spouses enjoy the right to know the privacy of the other spouse involved in the interests of the spouse. In order to protect their spouse's interests, check whether their exclusive interests have been threatened and infringed, and whether the other party has faithfully fulfilled its legal obligations, both parties must have the right to know about the privacy of the other party involving the interests of the spouse. Otherwise, spouse rights will become a hypocritical and meaningless right due to the lack of realizing means, and the above-mentioned obligations will inevitably lose deterrence due to the lack of powerful means to punish realizing them.

7. Liu Jinxiu. The conflict and regulation of the right to privacy and the right to know between husband and wife — The entry point is the infringement of the right of spouse by a third party [J]. *Journal of Changchun College of Education*, 2020,36(01):28-32.

4.2 Prerequisite for Exercising the Right to Know Between Husband and Wife

Privacy, as a personal right, does not die out with the establishment of marriage. Nor do individuals have to give up their rights as an individual just because they enter a marriage. Before exercising the right to know between husband and wife, there are preconditions. The exercise of the spouse's right to know has its limits, which must be related to the interests of the spouse and must be in the case that one party has sufficient reason to suspect that the other party's behavior is harmful to the spouse's interests.

If the spouse's right to know is allowed to be used without scope, it will not only affect the normal interpersonal communication and life of one party, but also damage the feelings and personality of the other party. Respecting for the rights enjoyed by both parties as independent persons is also essential for a healthy and stable marriage.⁸ [5] Therefore, the premise is that the contents of the exercise of the right to know between husband and wife must involve the interests of the spouse. The personal privacy that is purely personal and has nothing to do with the interests of the spouse belongs to the privacy of one person of the other party, and the other party has no right to investigate. If such privacy is violated, it can be regarded as an infringement on the privacy of the other party.

With the advent of the Civil Code, people are paying more and more attention to their own rights, especially the right to privacy and the right to know that are closely related to their personal lives. However, husband and wife share common life direction and pursuits, common property, and jointly support both parents and children, so their right to privacy and the right to know will be different from those of the independent natural person. What is private to one spouse may be what the other spouse should know. For example: both parties' salary, bonus and other property income, physical defects, extramarital sex and so on are personal privacy, but the other party has the right to know, which will stimulate the conflict between the right to privacy and the right to know. Although in the marriage relationship, there are the common interests of the spouse and the legal status of the other spouse, the individual's right to privacy based

on its derogation needs to give way. But its abdication does not come at the cost of complete disclosure of secrets, its privacy can still be well maintained. Therefore, the right of spouses to have the right to know the privacy of the other party involved in the interests of the spouse is legally and actually reasonable. One spouse shall not use the excuse of infringement of personal privacy to prevent the other spouse from exercising the right to know in order to protect the interests of the spouse.

4.3 The Impact of Spouse Rights on the Division of the Right to Privacy and the Right to Know Between Husband and Wife

Married men and women establish a husband-and-wife relationship, and the rights and obligations based on this identity relationship also arise and end with the marriage. The right of spouse is an identity benefit exclusive to both spouses, and its content includes the obligation of mutual loyalty to each other. Once the two parties enter the marriage, it has legal significance. Spouse's name right, cohabitation right and faithful claim right are the basic contents of spouse's right, among which, the right of loyal request, both spouses enjoy in accordance with the law and assume this obligation to each other respectively. The specific manifestation is that the spouses should trust and be loyal to each other, maintain the uniqueness of their partners and cannot engage in extramarital affairs in the common life, that is, the prerequisite guarantee for the relationship between husband and wife is a concentrated expression of the specificity and exclusivity of marriage. Article 1043(2) of the Civil Code and Article 1079 of the Marriage Law of China emphasize the necessity of the husband and wife to fulfill the duty of loyalty, and in fact it serves as a warning to the immoral acts such as bigamy and cohabitation with others etc., which leads to divorce and victims and relief has become legal if divorce is caused. Due to the particularity of the relationship between husband and wife, the right of loyalty request gives one spouse the right to know the content of the other spouse's life. Therefore, one spouse has the right to know whether the other spouse has an extramarital affair.

8. Li Xiuhua. Construction Path of Marital Property Right to Know From the Perspective of Legislation [J]. Journal of Shandong Women's University, 2019(02):91-96.

5. COORDINATION OF THE CONFLICT BETWEEN THE RIGHT TO PRIVACY AND THE RIGHT TO KNOW

In the above cases, although the court did not support the plaintiff's claim due to the illegality of the evidence obtained by the violation of privacy, the court ignored the existence of the right to know between spouses. In the author's opinion, when there is a conflict between the right to privacy and the right to know between couples, it should be dealt with as follows:

5.1 All Factors Should Be Fully Considered Before Exercising the Right to Know

The principle of public order and good customs is stipulated in Article 8 and Article 10 of the Civil Code. The application of this principle is reflected in the necessary legal restrictive provisions made by the civil legal system to the exercise of the rights of the civil subject, coupled with the recognized moral norms and systematic public order and good customs have been formed.⁹

5.1.1 The Exercise of the Right to Know Should Be Based on the Principle of Public Order and Good Customs

Marriage is the bond of the family and the family is the cell of the society. Whether the marriage is stable or not is related to the rise and fall of the entire family, and the balance between the right to privacy and the right to know between husband and wife is related to the harmony and stability of the family. Therefore, the exercise of marital rights must be in accordance with the law and also must comply with public order and good customs.

Article 2 of China's Marriage Law stipulates: "it is forbidden to cohabit with a spouse"; Article 3 states: "Spouses shall be faithful to each other and respect each other." The extramarital affair mentioned in the above cases does not comply with the monogamy principle stipulated in the Marriage Law from the legal point of view, and at the same

9. Article 8 of the Civil Code stipulates: "Civil entities engaged in civil activities must not violate the law or violate public order and good customs."

time violates the duty of loyalty of the couple; In terms of public order and good customs, it violates China's traditional concept of marriage and family, and it does not agree with China's customs and moral standards. Therefore, in order to collect evidence of the derailed party, the spouse's use of recording and secret filming does not constitute an infringement of personal privacy. The scope of privacy protection is for people other than both spouses and the no-fault spouse should enjoy the right to know between them. Finally, the law should protect the no-fault party's right to know.

5.1.2 The Exercise of the Right to Know Should Be Guided by the Principle of Respecting Human Dignity

The principle of human dignity can be understood as an emphasis on the personality right of privacy.¹⁰ [6] Privacy right, as one of the human rights, is of great significance to ensure the personal interests of the right subject. Although it needs to be restricted to some extent when it involves social politics and public interests, it can never be arbitrarily infringed on for this reason. The minimum limit of the restriction of its rights is not to infringe on the personal dignity of others. This principle should continue in the context of marriage. Even if one spouse can enjoy the right to know the privacy of the other spouse involved in the interests of the spouse, it does not mean that the spouse can step over the boundary of others to intrude on it, which is to guard and protect the dignity of the other party.

The right of personality in the Civil Code is composed of separate parts. Thus, human dignity, as the most important human right, is an independent basic civil right, which is inalienable and unrestricted. When dealing with contradictions in daily life, it should be based on respect for human dignity.¹¹ [7] For example, the marriage and family compilation requires both parties to respect each other, which fully reflects this principle. The principle of respect for human dignity is conducive to the establishment of a reasonable marriage concept for both spouses. The concept of marriage is also one of the reasons for the conflict between

10. Du Yongjie et al. Federated matrix factorization for privacy-preserving recommender systems [J]. *Applied Soft Computing Journal*, 2021, 111:17-22

11. Hutchings Elizabeth, Loomes Max, Butow Phyllis et al. A Systematic Literature Review of Health Consumer attitudes towards Secondary use and Sharing of Health Administrative and Clinical Trial data: A New Approach to Privacy and Transparency [J] *Systematic Reviews*, 2020, 9(1):28-30

the right to privacy and the right to know. In the marriage concept of mixed personality, denying the right to know in the marriage relationship, overemphasizing personal awareness, exaggerating one's own privacy rights and denying the other's right to know are essentially denying each other's personal dignity, which is not conducive to maintaining a stable marriage.¹² [8] Both spouses' respecting each other's personal dignity, equality, trust, and mutual loyalty obligations are the inherent connotations of today's marriage philosophy.¹³ [9] Neither party should consider the other party as his own accessory, and control and monitor the other party, which is a manifestation of disrespect for the personality of others. In short, in the face of the conflict of rights between the two, the spouses should respect each other's personality while constructing a reasonable concept of marriage, which is conducive to the stable and long-term development of the marriage relationship.

5.2 While Exercising the Right to Know, the Interests Should Be Weighed to Minimize the Damage

When exercising rights, one party should try his best to provide relief in a reasonable way. For example, when the other party's behavior is found to be abnormal, one party will inform by hint or direct warning that he has doubted the performance of his loyalty obligation because of his unreasonable behavior.¹⁴ [10] Under this pressure, the other party is required to disclose the privacy involved. In situations where it is not a last resort, try not to use methods such as tracking, eavesdropping, and secret photography to avoid the possibility of violating the rule of illegal evidence exclusion and increasing the risk of your own rights protection, and use reasonable means to protect your rights.

However, the social reality is complicated, and no matter how reasonable the theory or academic construction is, it will more or less become "accunable" after entering the reality. If the limitation of the reasonable exercise of the right to

know between husband and wife under the above ideal setting encounters the diversity of society and the complexity of reality, it will definitely be difficult to resist. But in fact, the requirement for the reasonable exercise of the spouse's right to know between husband and wife is more of a guiding rule and it is a self-conscious advocacy to minimize the invasion of others' privacy, hurt others' feelings, damage others' personal rights, and solve problems with a small loss of interests. Compared with truly resolving conflicts of rights, its purpose is more to establish the awareness that even if you have the right to know part of the privacy of others, you should respect the completeness and privacy of others' privacy. On the contrary, if you arbitrarily intrude upon others regardless of the boundaries of others because you have the right, it is bound to bring the antipathy and resistance of the other party. In the long run, the stability of the distribution of rights will be shaken, and the coordinated legal relationship will be in turmoil again. It is necessary to restrict the exercise of the right to know in a reasonable way for the long-term consideration of rights protection. In solving the conflict between the two rights of husband and wife, the interests of both parties brought by living in harmony to the stability of the family, that is, the overall interests of the family, are definitely higher than the interests brought by the protection of one party's right to privacy and the right to know. The power of the two benefits is the heavier, and the power of the two evils is the less.

When a dispute occurs, in addition to the individual interests of both parties, we also need to consider family interests and social interests. If one party conceals the illness, it will not only cause adverse consequences for the person, but also for the other party and other members of the family, thereby aggravating the social burden.¹⁵ [11] We should consider the impact of the case, weigh the pros and cons of the two conflicting rights, find the balance point of the conflict, highlight the principle of the least damage, and take the conclusion of the least adverse impact on both parties and the society as the final solution, so as to maximize the social benefits.

12. Cheng Xiao. Protection of Privacy and Personal Information in China's Civil Code [N]. People's Court Journal, 2020-07-30(005):16-17.

13. Zhang Xinbao. Research on Privacy right [J]. Legal Research, 1990(003):56-67.

14. Sherman S.M. Chow, Jinguang Han, Accountability and Privacy issues of cryptocurrency on the blockchain and on the cryptocurrency [J]. Future Generation Computer Systems, 2021, 114:63-75.

15. Li Juring. Analysis of the conflict between spouse rights and privacy rights and discussion on its solution [J]. Law forum, 2013,28(4):105-112.

5.3 *Completing the Exercise of the Right to Know Without Dissemination, No Ugly, and Reasonable Exercise of the Right*

Undeniably, the evidence collection by one spouse is an act of rights protection. The reason is that the other party violates the husband and wife's duty of loyalty, while the third party infringes on the spouse's rights. In such cases, the injured party takes candid photos of the privacy activities of the infringing party and the third party to obtain evidence. In essence, it is to safeguard their rights, and the evidence obtained should be recognized as legal. In the process of obtaining evidence, although this method may expose the privacy of the infringing party and the third party, the reason is that such privacy violates public order and good customs. At the same time, it is true that the injured party suffered betrayal, and their grief and anger deserve sympathy and understanding. However, the way they exercise their rights does affect the normal life of the other party, making him live under great social public opinion and moral pressure, and need to endure the outside world's eyes and bear the consequences of the reduction of social evaluation, which in fact has caused great mental pain to them, and also violated his personal rights.

Of course, the exercise of civil rights must be based on legitimacy. In the process of exercising rights, the no-fault spouse should not adopt excessive behaviors. At the same time, the informed subject should be strictly restricted, and the protection of rights should be controlled within a certain limit. Being infringed is not a reason to damage the rights of the other party, but it is also not a requirement for the injured party to swallow its anger. From a rational perspective, when the right is infringed, the ideal solution is to require the infringing party to restore the right to the full state before the infringement and to compensate for the damage suffered by the injured party.¹⁶ [12] Proportion should be paid attention to. It is not necessary to test on the edge of breaking the law, rather than "an eye for an eye, a tooth for a tooth". By no means will you let yourself go from being a "victim" to a "perpetrator". Because this kind of direct and rude handling will make the disputes between the two parties more and more

complicated, and eventually fall into a "when is the end of injury for injury" type of interloper outcome.

This restriction is designed to avoid such situation. In order to respect the rights of others, after one spouse exercises the right to know between the spouses, regardless of whether the privacy he has is in favor of the other spouse, he should keep the content of his knowledge confidential, except for public interests or judicial investigations. The secret is known within a certain range, which can ensure that the part of the privacy certification function can be used to accurately protect the interests of the injured party, and it will not harm the personal interests of the right subject.

The right to privacy and the right to know between husband and wife are complementary and mutually reinforcing. The husband or wife shall not disregard the interests of the other party because of their own right to know. This is against the law and also against morality. A spouse should be supported as long as it is within the legal scope when exercising rights. It should adhere to fairness and justice, safeguard rights in accordance with the law, with an appropriate scope, and the principle of minimizing damage.

6. CONCLUSION

The right to privacy and the right to know between husband and wife are the basic human rights granted to citizens by the law. Respecting and protecting the right to privacy and the right to know between husband and wife is a sign of human civilization and a manifestation of the progress of the rule of law. In modern society, the conflict of this special private right between husband and wife is becoming more and more serious. We have conducted appropriate coordination on it according to certain principles, and the initial results have been achieved. However, because it is not specific and systematic enough, to solve the problem fundamentally, the law also needs comprehensive and maneuverable regulations, so as to better maintain a healthy and civilized family order and build a harmonious and stable family relationship.

AUTHORS' CONTRIBUTIONS

Yang Zhou is responsible for the writing and innovation of the thesis, and Wei Xie contributes to the revision and review of the paper.

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