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Blurred spaces and erosions of privacy: Examining working from home during the Covid-19 pandemic in Norway through the lens of the legal notion of privacy

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Abstract

Internationally, the home is legally protected as a bastion of private life, where one may retreat to and recollect oneself after a day's work and enjoy family life. With the outbreak of the Covid-19 pandemic, working from home – facilitated by new collaborative information and communications technology (ICT) platforms and tools – became mandatory in several countries. For many, the workplace was brought into the home. This article examines how working from home on a mandatory basis during the pandemic affected employees' perceptions and practices of privacy, and its implications for the legal understanding of privacy. With Norway as a case, it investigates the measures taken by employees and employers to safeguard privacy during this period. The data collection and method combine an interpretation of legal sources with qualitative interviews. The analysis shows experiences and practices that suggest a blurring of roles and physical spaces, and the adoption of boundary-setting measures to safeguard privacy.

Keywords: Privacy law; sociology; Covid-19 pandemic; work-home boundaries; technology; Norway

1. Introduction

For many, the home represents 'perhaps the most typical and best-known privacy space' (Koops 2018, p. 634) where an individual's 'private life' unfolds. The home is both 'a sanctuary', where one may 'temporarily set the world aside', withdraw, retreat and recollect oneself after work or other activities, as well as 'a haven' for close familial relations (Rapoport 2012, p. 322). In the European Convention on Human Rights (hereinafter 'ECHR'), respect for 'the home' is protected as part of the individual's right to privacy pursuant to Article 8(1), together with 'family life', 'correspondence' and the broader 'private life'. The home has been an 'important boundary marker[] in legal frameworks to delineate a private sphere in which the government and other parties should not interfere, unless with good reason and on appropriate and legitimate grounds' (Koops 2014, p.10). However, as Koops (2014, p. 10) observes, when the legal protection of privacy developed and took shape in the nineteenth and twentieth centuries, 'the acts that interfere with the body, home, communications, data, or the family were different: a slap in the face, someone sneaking in the house, a bug on the phone line, a company selling address databases, or a government putting a child in custody'.

In contrast to the home, the workplace is typically located outside and distinct from the home – for example, an office or business premises, where the employee carries out or performs work.

Though the European Court of Human Rights (hereinafter ‘ECtHR’) has held that the right to privacy extends to a broad range of issues in the workplace, this right ‘is qualified by the employment relationship’ (Hendrickx and Van Bever 2013, p. 206). At the workplace, ‘[b]ecause of the authority relationship binding the employee to his employer, the employee’s reasonable privacy expectations are reduced’ (Hendrickx and Van Bever 2013, p. 185).¹ In fact, legal scholars have described the workplace as ‘a semi-private zone’ (Koops 2018) or a ‘semi-public space’ (Wagnerová 2011), as opposed to the home, which is described as both a ‘personal zone’ (where one can choose to withdraw from the world) and an ‘intimate zone’ (for intimate or family relations).

These two spaces – the home and the workplace – collided on a large scale during the Covid-19 pandemic when remote work from home became mandatory for many, as was the case in Norway. Upon the outbreak of the pandemic, the Norwegian government recommended that, to the extent that it was possible to work from home, one should do so. Private and public sector organisations quickly abided by this recommendation, ordering employees who could work remotely to avoid reporting to the workplace and instead work from home (NOU 2021, p. 127). What used to be considered a perk of the job – working from home – became mandatory for these employees. The workplace was brought into one’s home.

The possibility to work from home, of course, existed prior to the outbreak of the Covid-19 pandemic, though the prevalence of those working from home in Norway was considerably lower. An important premise for this possibility is the high degree of digitalisation in Norway, with around 80 per cent of households having broadband coverage in 2018 (OECD 2020). In 2019, before the Covid-19 pandemic shutdown, 18 per cent of employees who had the option of working from home worked at least one whole day a week from home, whereas only 2 per cent did so on a daily basis (Ingelsrud and Bernstrøm 2021, p. 4). Before the pandemic, working from home was typically voluntary for the employee and considered a perk (Beauregard, Basile and Canónico 2019). This was not the case during the pandemic. Post-pandemic, 53 per cent of employees in Norway have access to hybrid work (Ingelsrud et al. 2023).

Besides being mandatory, other distinguishing features of working from home during the Covid-19 pandemic in Norway were: (i) its scale – half of all employees in Norway worked from home, with around half of these working between one day to several days a week from home (Ingelsrud and Bernstrøm 2021); (ii) its relatively long duration, spanning approximately two years, with short intermittent periods where employees were permitted to return to the workplace (NOU 2021); and (iii) its scope, which was enabled by information and communications technology (hereinafter ‘ICT’) – the fast take-up on a massive scale of ICT tools and platforms enabled group work, team meetings and communication with work colleagues, customers and partners at other firms or organisations to be carried out both aurally and visually from home. Although many of these ICT tools and platforms were available before the pandemic, it was only after its outbreak that, almost overnight, such tools and platforms became the *primary* work tool for most Norwegian employees working from home (Ingelsrud et al. 2022).

The mandatory nature, the scale, the relatively long duration as well as the pervasive technological intrusion of the office into the home raise implications for the right to the ‘privacy of the home’ of not just the individual worker, but also of others, such as children and spouses/partners, living in the same space. As Cohen (2012, pp. 142–43) states:

¹As article 8(2) ECHR states ‘There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.’

‘The home affords a freedom of movement that is both literal and metaphorical and that has physical, intellectual, and emotional dimensions: we can move from room to room, we can speak our minds and read whatever interests us, we can pursue intimacy in relationships.’

Working from home is a form of telework where an employee performs paid work from a location that is his/her ordinary dwelling. For the last two decades research has linked telework to various positive (Baard and Thomas 2010; Bailey and Kurland 2002; Boell et al., 2013; Bosua et al., 2013; Fonner and Roloff 2010; Gajendran and Harrison 2007; Giménez-Nadal et al., 2018; Hill et al., 2003; ILO 2020) and negative (Baruch 2000; Chung 2022; Eurofound 2020; Lang and Jarvenpaa 2005; Mann and Holdsworth 2023; Pérez et al., 2002; Sarker et al., 2012; Tavares 2017) consequences pertaining to, for example, employees’ productivity, work satisfaction, stress, (lack of) work-life balance and overwork. Following the Covid-19 pandemic there has been considerable research on and several systematic literature reviews of the consequences of working from home for employees’ health and well-being (Bouziri et al., 2020; Chirico et al., 2021; Gualano et al., 2023; Koren et al., 2023; Lunde et al., 2022). There are also various scholarly works from the social sciences on the impact of the pandemic on the workplace with focus on issues such as digitalisation, leadership and work-life balance. Pettersen (2022), for example, has examined how digitalisation may impact the workday of the future, and looked at issues of leadership, collaboration and networking. Brattbakk (2020) has examined the effect of crowding on the daily lives of families during the Covid-19 pandemic. There is, however, a dearth of literature that explores whether and how working from home has affected our experience and understanding of privacy.

There is also a paucity of legal scholarship on this issue. To be sure, there is extensive legal literature on the right to privacy, including on privacy and employment. However, most of this literature tends to focus on data protection issues relating to the use of technology in hiring practices (e.g. Hendrickx and Van Bever 2013), workplace monitoring and surveillance (e.g. Hendrickx and Van Bever 2013; Olsen 2020) and on the extent to which the processing of personal data of employees is permissible under the European Union’s General Data Protection Regulation (Regulation 2016/679, henceforth ‘GDPR’) (e.g. Kamarinou et al. 2016). However, despite a substantial increase in working from home following Covid-19-related social distancing measures (ILO 2020), and even though working from home seems to have become – in a post-pandemic situation – the ‘new normal’ in modern societies such as Norway (Ingelsrud et al. 2022), there is limited knowledge of whether and how working from home has affected the nature, extent and limits of the legal notion of privacy.

In an attempt to address this gap, this article analyses original empirical data on how employees in Norway experienced working from home during the Covid-19 pandemic, including what boundary-setting measures, if any, were put in place by employees and employers to safeguard privacy. It relies on qualitative data collected during the pandemic in the form of semi-structured interviews with employees and focus group interviews with representatives from management. The data was collected in a research project funded by the Norwegian government that mapped the extent, trends and consequences of working from home during the Covid-19 pandemic in Norway. The project included a study of the implications that working from home may have had for the right to privacy. The qualitative data is analysed in this article through the lens of legal scholarship on privacy, in particular, Koops et al.’s typology of privacy, which distinguishes between different ‘zones’ of life spanning from the personal, to the intimate, followed by the semi-private and, at the other end, the public zone. We argue that this is in line with the ECtHR’s distinction between the different ‘circles’ in which the individual enjoys ‘private life’. The focus of this article is more on physical privacy – that is, privacy in the physical world, rather than informational privacy (in the sense of GDPR aspects on the processing of personal data such as legal basis for processing, duties of data controllers or information security).

The article starts by briefly explaining the right to privacy in the ECHR, Norwegian law and legal scholarship, with a focus on the right to respect for ‘private life’ and ‘the home’. It then sets

out Koops et al.'s typology of privacy which distinguishes between different zones of life and ideal types of privacy. Following this, the data collection and method, is explained. Our findings indicate that some employees experienced a blurring of roles and identity – employee vs. parent/spouse – and some experienced a blurring of physical spaces – the home as ‘home’ vs. as ‘workplace’. Using the aforementioned theoretical lens, we then examine some boundary-setting measures that were put in place, primarily by the employees, to distinguish ‘being at work’ from ‘being at home’, and which assisted employees to demarcate the two ‘spaces’. We argue that the findings show that the physical element of privacy linked to an individual’s physical/psychological self (who one is) and to the home as a physical space (where one is) seems to be eroding or, at the very least, being chipped away. Though our study was conducted during the pandemic, the findings are still relevant today, in a post-pandemic world where the ‘new normal’ shows both a substantial increase in working from home (Ingelsrud et al. 2022; 2023) as well as the continued use – when working from home – of extensive ICT tools and platforms for group work, meetings and other communication with work colleagues, clients and other business partners. We highlight the need for other, additional, constructs or approaches to protect privacy, beside or alongside the protection of ‘the home’. We suggest that the boundary-setting measures employed by the employees to safeguard privacy shed light on what some of these additional constructs or approaches may be.

2. Analysing privacy: privacy zones

In Norway, the right to privacy is a fundamental human right, recognised both by the Norwegian Constitution and the Human Rights Act. In near identical wording to Article 8(1) ECHR, article 102 of the Norwegian Constitution recognises the individual’s right to respect for ‘inter alia’ his or her ‘private life’ and ‘the home’. The same provision in the Constitution furthermore provides that the state ‘shall ensure the protection of personal integrity’, thereby recognising privacy as both *an individual right* (right to private life, home and communication) exercisable by the individual, and as *a general duty* on the state to ensure there is legislation that safeguards the individual’s bodily and mental integrity, autonomy and self-fulfilment (Norwegian Human Rights Commission 2011). As Bygrave (2014, p. 120) states:

‘Such interests, like privacy, are not only relevant to the well-being of individual persons; they have a broader societal significance as well. Their protection helps to constitute a society infused with the values of civility, stability, pluralism, and democracy. Realization of these general societal values must, therefore, also be recognized and treated as an integral part of data privacy law.’

Scholars have long sought to explain the right to privacy by conceptualising it, with some offering a unified conceptual core (Nissenbaum 2010; Moore 2010; Cohen 2013), while others have proposed a pluralist or typological conception of privacy by making meaningful distinctions between different types of privacy (Solove 2008; Finn et al., 2013; Clarke 2006; Koops et al., 2017). Many of the scholars in the latter category have highlighted privacy of the home as an example of ‘spatial privacy’ (Koops et al., 2017), ‘private space’ (Clarke 2006) and ‘privacy of location and space’ (Finn et al., 2013).

Koops et al.’s (2017) typology of privacy is particularly relevant for this article because of the methodology used to develop it. Koops et al. developed their typology by, first, conducting a systematic analysis of constitutional protection of privacy in nine jurisdictions and the ECHR,² and, second, by identifying the main dimensions of privacy through a literature study of privacy

²The nine jurisdictions are: the USA, Canada, the UK, the Netherlands, Germany, Italy, the Czech Republic, Poland and Slovenia.

scholars in the same nine jurisdictions. Though Norway was not one of the nine jurisdictions studied, seven of the countries studied are, like Norway, signatories of the ECHR, and the legal notion of respect for the individual's 'private and family life, his home and his correspondence' is thus a key factor underlying the typology. Koops et al.'s (2017) typology identifies 'ideal types' (Weber 1949) of privacy across a spectrum of four different zones (or spaces) of life where, to a larger or lesser degree, individuals may have claims or expectations of privacy.

According to Koops et al.'s (2017, p. 545) model, the zones move along a spectrum 'starting from a private zone (solitude), moving to an intimate zone (intimacy), a semi-private zone (secrecy) and ending with a public zone (inconspicuousness)'. For each zone, the model identifies both a so-called 'negative' and a 'positive' aspect, with the negative freedom (*freedom from*) emphasising the right to 'being let alone' and the positive freedom (*freedom to*) emphasising the right to 'self-development'. Along the four zones of life and two (positive and negative) aspects of privacy, Koops et al. (2017) identify eight primary ideal types of privacy. The *personal zone*, typified by solitude or isolation, comprises both bodily privacy (privacy of the physical body and bodily movement) and intellectual privacy (freedom of thought and mind); the *intimate zone* comprises spatial privacy (freedom from intrusion into private space) and decisional privacy (freedom to take intimate decisions within the context of intimate relationships, typically as part of family life); the *semi-private zone* comprises communicational privacy ('restricting access to communications or controlling the use of information communicated to third-parties') and associational privacy (freedom to control who to interact with); and the *public zone* comprises proprietary privacy (the individual's interest to shield or conceal activity, facts, things or information from the view of others by using property such as a purse) and behavioural privacy (by seeking to remain inconspicuous or through civil inattention).

Koops et al.'s typology indicates the physical places that enjoy privacy protection in each of the abovementioned zones. The home is the quintessential place for solitude and intimate relations with family and close friends, that is, the typical representation of both the personal and the intimate zone. The semi-private zone, on the other hand, includes social interaction with a wider range of actors such as work colleagues and customers and 'often take place outside strictly private places or intimate settings, in semi-public spaces such as offices' (Koops et al., 2017, p. 568) or other meeting spaces.

The first three zones – personal zone, intimate zone and semi-private zone – are thus more relevant for the discussion in this article than the public zone.

The literature distinguishes between a physical and a non-physical (or informational) layer to privacy. As Bygrave (2014, p. 3) notes, privacy law 'has spatial, bodily, and perhaps psychological dimensions that are usually not directly addressed by data privacy law'. Thus, the right to privacy encompasses, but is broader than, the right to informational privacy which, in Norway, as in the rest of the European Economic Area, is primarily protected through the GDPR.

The utility of Koops et al.'s classification is that the eight ideal types of privacy may be seen as 'physical' types of privacy in that 'these types of privacy refer to the actual objects of privacy that can be directly "watched" or intruded upon' (2017, p. 555). On the other hand, 'informational privacy does not protect the body, space, communications, behaviour, etc., directly, but protects the information about these' (Koops et al., 2017, p. 555). Thus, informational privacy should not be seen as a separate type of privacy alongside the other eight ideal types but as an overarching layer which may touch each of the eight ideal types. In this sense, informational privacy can be seen to be the 'other side of the coin' (Blok 2002, p. 283; Koops et al., 2017, p. 555) to the other eight ideal types, rather than a separate type of privacy.

A further dimension to privacy identified by Koops et al. (2017) draws from the distinction in the literature between restricting initial access (to the individual's body, personal thoughts, home, private space and property) – that is, in the sense of exclusion, and controlling information after

access has been granted (e.g. to protect the confidentiality of communications, the secrecy of records and to control the use of personal data).

Koops et al.'s (2017) distinction between different privacy 'zones' is in line with the jurisprudence of the ECtHR. In various judgments, the ECtHR has illustrated the notion of 'private life' by distinguishing between different 'circles' or 'zones' of privacy. In *Niemietz v. Germany* (1992, paragraph 29)³ the ECtHR held that the notion of private life is not limited to the protection of

'an "inner circle" in which the individual may live his own personal life as he chooses and to exclude therefrom entirely the outside world not encompassed within that circle. Respect for private life must also comprise to a certain degree the right to establish and develop relationships with other human beings.'

There is thus 'a zone of interaction of a person with others, even in a public context, which may fall within the scope of "private life"' (*Peck v. UK* 2003, paragraph 57).⁴ As to the distinction between 'workplace' and 'home', the ECtHR has held that:

'it may not always be possible to draw precise distinctions, since activities which are related to a profession or business may well be conducted from a person's private residence and activities which are not so related may well be carried on in an office or commercial premises' (*Niemietz v. Germany* 1992, paragraph 30).

It therefore comes as no surprise that the ECtHR has also applied article 8 ECHR to activities of a professional or business nature, 'since it is, after all, in the course of their working lives that the majority of people have a significant, if not the greatest, opportunity of developing relationships with the outside world' (*Niemietz v. Germany* 1992, paragraph 29).

As regards the right to privacy of the home, the notion of 'home' was held by the ECtHR to include both a physical space – 'the place, the physically defined area, where private and family life develops' – as well as a right to 'the quiet enjoyment of that area' (*Moreno Gómez v. Spain* 2005, paragraph 53).⁵ As such, breaches of the right to respect of the home 'are not confined to concrete or physical breaches, such as unauthorised entry into a person's home, but also include those that are not concrete or physical, such as noise, emissions, smells or other forms of interference' (*Moreno Gómez v. Spain* 2005, paragraph 53).

3. Data collection and method

This article relies on qualitative data from an extensive data set collected in a mixed method project.⁶ Extensive qualitative data were collected during semi-structured qualitative interviews with employees held between April and June 2021, and focus group interviews with representatives from management in the spring of 2021, with a follow-up to the latter focus group interviews in October/November 2021. This article analyses further the qualitative data set in this project, in particular, how employees have experienced working from home from the perspective of the legal notion of privacy, and what implications this might have for the future of working from home after the pandemic.

³No. 13710/88, 16 December 1992, Series A no. 251-B.

⁴No. 44647/98, 28 January 2003, ECHR 2003-I.

⁵No. 4143/02, 16 February 2005, ECHR 2004-X.

⁶The authors were part of a team of researchers funded by the Norwegian government that mapped the extent, trends and consequences of working from home during the Covid-19 pandemic. The project ran from January 2021 to March 2022.

3.1. Interviews with employees

Data were collected via twenty-six semi-structured qualitative interviews with employees from different organisations in the private and public sectors. The interviews were carried out by four researchers between April and June 2021, during the so-called third wave of infection (NOU 2022), when society underwent a shutdown, and another coronavirus variant (Delta) had emerged, and where all those who could work from home were instructed to do so. The data material thus consists of experiences collected during an exceptional situation when many employees were not allowed to go to the office, and where new groups of employees had to work from home. Some participants had previously, though only occasionally, worked from home, but most of the participants only started working from home because of the pandemic. This group thus constituted a case of new groups of employees experiencing working from home at a time when working from home was their main form of work.

The participants comprised fourteen women and twelve men living in various areas of Norway, with the majority from Eastern Norway.⁷ Two of the participants lived alone, ten lived with a partner/spouse, and fourteen lived with both partner/spouse and children. The participants were between twenty-nine and sixty-seven years old, with the average age being approximately forty-five years. The participants came from thirteen different organisations in both the public and private sectors, including the municipal government, public administration, insurance and media organisations. Some of them had a so-called 'distinctly independent position' such as senior advisor, advocate or journalist, while others did more routine work such as customer service and case management. The research team determined which organisations to approach and decided on a sample that varied in size, organisation/business type, geography, employee tasks and working conditions. Organisations were selected because the research group had contacts with employees, management or trade unions who could pass on the request for an interview.

The first twenty participants were recruited by contacting employers, who forwarded the request to all their employees via e-mail, and potential participants then made direct contact with the researchers. The aim was to prevent the employer from knowing which employees were participants. After interviewing the first twenty participants, it emerged that only a few lived with children. Through the research group's extended network, six additional participants from the selected private and public sectors who had children of kindergarten and school age and who worked from home were recruited. There is a tendency to over-select participants, among the first twenty participants, who either were very happy or very dissatisfied with working from home. This is probably because it is often those with the strongest opinions who choose to take part in a qualitative interview.

The sample is both heterogenous and homogenous. Though there is a variation of business areas, professions, geography, age and civil status to give insight into different experiences, the sample included sectors, organisations, business areas and positions where it was possible for employees to work from home. However, there is little variation in the participants' working conditions and most of them come from very well-regulated, permanent and full-time positions in established companies. Though the sample has some variation, it is still too small to allow for any extensive generalisation (Payne and Williams 2005). The analysis emphasises the more general and consistent experiences instead of taking a comparative approach in which different groups in the sample are compared to each other.

The interviews were carried out through videoconferencing and were aurally recorded on tape. They were subsequently transcribed verbatim and anonymised. All participants gave their informed consent to participate in the study. The average length of each interview was approximately fifty minutes. Participants were asked about their experience of working from home, where, when and how they worked, with a small set of questions related specifically to

⁷The region of Eastern Norway, which includes Oslo, geographically comprises the south-eastern part of southern Norway. Around 51.1 per cent of the country's population lives in Eastern Norway.

privacy, including questions on whether they felt any need to protect their private life and/or their family member's private life while working from home, and what measures, if any, they took to safeguard their own and family members' private life while working from home.

The transcripts were thematically coded in NVivo. Quotations from the interviews, held in Norwegian, have been translated into English by the authors.

3.2. Interviews with employers and management

Data were collected in focus group interviews with representatives from employers and management in ten organisations, representing a wide range of industry sectors, geographical locations, sizes and extent of home office use. The selected organisations span the private sector (including the insurance, media and IT businesses) and the public sector (including the municipal government and public administration). All the organisations had employees who worked from home during the Covid-19 pandemic, but some of them also had staff that were present at the workplace. However, the interviews only focused on the managers' experiences with those employees who worked from home.

The focus group interviews were conducted in spring 2021, with each group comprising between two and five managers representing different parts of the organisation. All of them had personnel responsibility. The group included managing directors, general managers, middle managers and human resources managers. The interviews were conducted through videoconferencing by two to three researchers and lasted approximately ninety minutes each.

The researchers followed a semi-structured interview guide that focused on issues such as experiences with working from home, management and control, employee follow-up, working environment and post-pandemic plans vis-à-vis working from home. These focus group interviews provided in depth knowledge of the consequences of working from home at the organisational level. The group interaction generated discussions and reflections, and managers within the same organisation often had different experiences and views on the topics discussed.

In October and November 2021, six months after the focus group interviews, follow-up interviews were held with one or two managers from each focus group. In September 2021, all Covid-19 measures were removed by the Norwegian government and the organisations thus had a few weeks or months with no mandatory requirement to work from home. During a thirty-minute follow-up interview, the managers were asked about their organisation's chosen solutions for working from home, including any measures that the organisation put in place to safeguard the employee's privacy while working from home.

As with the employee interviews, all focus group interviews were recorded on tape, transcribed verbatim and anonymised by the researchers themselves. The interview material was then thematically coded in NVivo.

4. Findings and analysis: erosion of personal and intimate privacy zones

Our analysis of the empirical data shows that, from a privacy point of view, the main challenges for employees emanate from: (i) the blurring of roles and (ii) the blurring of physical spaces, namely, the workplace and the home. We argue that the first contributes to the erosion of the personal zone, while the second contributes to the erosion of spatial privacy (intimate zone).

4.1. Blurring of roles: erosion of the personal zone

A core aspect of personal privacy relates to respect for a person's sense of identity, which includes both how the person perceives himself or herself, as well as how that person thinks that others perceive him or her. As Koops et al. (2017, p. 536) eloquently put it:

‘people’s identity is, in a sense, the core of the human person, and the sense of self requires protection particularly in order to safeguard mental integrity as well as to facilitate people’s autonomous decision-making’.

Privacy is key to enable the individual ‘to maintain a variety of social roles and identities’ and is necessary to live rich and fulfilling lives ‘where we can simultaneously play the role of friend, colleague, parent and citizen without having the boundaries between these different and often conflicting identities breached without our consent’ (Goold, 2009, p. 4).

Some participants in the semi-structured interviews spoke of the difficulty of juggling the role of employee with that of spouse and parent. One such participant spoke of a difficulty with separating roles and depicts what almost appears to be a crisis of identity when trying to juggle the different roles of employee, spouse and parent:

‘So, like now, [my spouse] – was going to make lunch. Then he just starts preparing it, even though I’m sitting here. I find it very tiresome. In a way, I feel like a nomad in my own universe, which is just like – am I an employee? Am I a mother? What am I, like? I’m nothing, really, barely awake.’ (Employee 20)

Scholars have long discussed the inroads that current and emerging technologies have made on the physical element of privacy, with some, like Koops (2014 p. 247) arguing that the ‘physical element is growing more elusive as it cannot be neatly tied to human persons or specific places’. Our findings highlight what appears to be a *further* erosion of physical privacy. When the office is brought lock, stock and barrel inside the home to the extent (as to scale, duration and pervasiveness) that occurred during the Covid-19 lockdown period, there is not just a blurring of the semi-private zone (office) and the intimate zone (home), but also an intrusion of the semi-private into the *personal zone* – that is, into the individual’s sense of self. Sociologists have described the feeling of not having ‘sufficient agency to do a good job, that working time flows into leisure time and vice versa’ and a ‘perceived meaninglessness in the job’ as a risk of alienation (Egeland et al., 2022, p. 44).

4.2. Blurring of physical space: erosion of spatial privacy

The home is traditionally seen as the place where one can retreat, rest, recharge and be oneself, alone or with intimate friends and family. It is the privacy space ‘par excellence’. It has a hybrid function, being both ‘a secluded place in the personal zone’ (Koops 2018, p. 635) where one finds solitude in a personal space or room of one’s own, as well as a place for intimate relations with family and friends, and thus a private space in the intimate zone.

Interviewees with young children spoke about the commingling of their ‘workplace’ in the home with their family life at home, in the semi-structured interviews. Employees who do not work from a separate room at home but work from a common area (e.g. kitchen or sitting room) described challenges from the superimposition of one zone (semi-private/office) on to the other (intimate/family). This is a new reality that, as one such participant described it, ‘no one has been trained or socialised’ or prepared for:

‘So, I have meetings until five o’clock, for example. But then the children come in, just like that, and tell me their grades or need help or cry or . . . Yes, and then I think – that’s how it’s become now, somewhat. And I realise that they don’t respect that I say I’m in a meeting. And that’s what I think is interesting about this, because no one has been trained or socialised on how a family functions in a home office. And it’s actually very demanding for us as parents, and it’s also very demanding for them, because they are the centre of their own universe.

They don't understand – why shouldn't I disturb my mum when she's sitting there and is available?' (Employee 20)

On a similar vein, another participant with children has described working from the living room and the kitchen in the home as follows:⁸

'A month ago I bought a desk, so now I have a writing desk here, which I've set up against the window, but otherwise I've moved from the kitchen table to the sofa when I need to put my legs up. So that's the problem with working from home for me, that when the first of the children comes home at half past one, five hours of the working day have passed, you are no longer alone and there are children and friends running around, so that's been the challenge.' (Employee 21)

Seen from the children's perspective – not least the children's own expectations of 'private and family life' when they are in their own intimate privacy zone at home – both the above examples can be described as the intrusion into, or, more precisely, the collision of, the parent's workplace and the home.

One of the two participants who lived alone at home and worked from a desk in the corner of the living room described the fluid boundaries between the home and the workplace as follows:

'I only sit there when I am working. But . . . at the same time, it's in the living room. There is not . . . it is not a separate room. So the dividing line between being at work and being at home relaxing is . . . a two-metre walk.' (Employee 1)

The same participant spoke about the importance of what they described as 'psychological borders' around spaces, though the description also illustrates this by reference to the lack of clear physical boundaries between the home as a workplace and the home as a place of relaxation.

'When I'm at work, it's like, it's a place of work, that is where I will be working. There aren't as many distractions. [. . .] you get a very clear transition. And a clear division between work and non-work. Because it's not just that there are other premises, but you get the whole journey to work and the journey from work. So you kind of get time to realise that, yes, now I'm on my way to work, now I'm going to be in 'work-me' [mode]. And a very, very sharp distinction it is. Which is not present, at least not when you sort of get up . . . lumber three metres from your bedroom to the living room and sit down in the corner of the living room, where you sit when you're working, and then you also walk through the living room when you're going to the kitchen to get a cup of tea or some food or something like that. You're always in that . . . that sphere, that room where you're supposed to relax.' (Employee 1)

The other participant who lived alone (Employee 16) and who also did not work from a separate room in the house but rather worked from the kitchen table, was positive about working from home during the pandemic and also mentioned desiring to continue working from home approximately two days a week when the pandemic is over. An important distinction between this participant and the other participant (Employee 1) is that the former followed very clear boundaries regarding working hours and worked at fixed, pre-defined times. We discuss such temporal boundaries in the next section.

⁸Employee twenty and Employee twenty-one describe a period during the pandemic where schools had reopened but employees were still required to mainly work from home. Employee twenty had the possibility to work from the office between one to two days a week, whereas Employee twenty-one worked almost exclusively from home and was only rarely allowed to go to the office on special grounds and after obtaining permission to do so.

Some of the interviewees who were mandated to work from home felt that there was a blurring of the office (semi-private zone) as a physical space and the home (intimate zone), a factor that was facilitated by IT tools that enable visual and aural communication not just with one's colleagues and boss but also with clients:

'No, it's become more work and less home, but the work is in the home, in a way.'
(Employee 20)

5. Boundary-setting measures to safeguard privacy

The interviewees use different boundary-setting measures to distinguish between when they are 'at work' from when they are not. Such measures can be categorised as: (i) the designation of a fixed physical place or location as the space where one works – that is, as one's 'workplace' so to speak, (ii) temporal boundaries and (iii) visibility restrictions. These are examined below.

5.1. Designating a fixed physical space

Designating a fixed room, office space or location in the home as the space where one works appears to be one of the measures that the employees used to distinguish between 'being at work' and 'not being at work'. This was also one of the strategies mentioned in the semi-structured employee interviews:

'I'm lucky because we live in a detached house, which means I'm very privileged in terms of creating a good workstation. So my partner is on the second floor, and he's set himself up with a desk, a big computer screen and an office chair. And I've set myself up in the guest room, where I sit quite undisturbed – if I don't consider my cat – and I've got an office chair in the office, a computer screen and keyboard, which is very helpful.' (Employee 11)

On similar lines, another participant stated the following:

'I live in [district], in a 120 square metre apartment with my wife [...] and a dog. And here at home, I've set up my own home office slash library. So that's how it is.' (Employee 4)

Both the above participants worked in a separate fixed location/room that was dedicated to working from home. A similar positive experience was described by another participant who worked from a dedicated fixed space (a desk) in a guest room that was used as an office during the pandemic, even though the participant's partner worked from a separate desk in the same room.

Employee: 'So, I would say our home office facilities are really nice then. They are very good.'

Interviewer 2: 'But is it the case that, when you sort of go to the home office then, at work sort of, is it the case that inside that room you kind of associate it with working?'

Employee: 'Yes.'

Interviewer 2: 'That it creates such a distinction.'

Employee: 'Yes. And then I close the door and I've finished working. Yes.' (Employee 9)

However, having a separate room or location solely dedicated to working from home is not a given for all participants, as we have shown in section 4.2 of this article. Many participants who worked

from a common area in the house (e.g. kitchen or sitting room) struggled to differentiate between home and workplace when the other family members used the common area for private, family use. The ability to designate a fixed physical space as a boundary setting measure is thus also dependent on the person's socio-economic background.

For those interviewees who had the possibility to do so, the designation of a fixed location as one's workplace was a common boundary-setting measure to offset the blurring of roles and of physical spaces during the Covid-19 pandemic. Through this spatial measure (working from a specific room or place), employees appear to be carving out a space – a *physical* space – within the home when that space is designated as the 'workplace' or 'workspace' and not 'home'. Thus, the physical space in the intimate zone that has been traditionally associated with spatial privacy is shrinking and what has traditionally been deemed to fall within the semi-private zone – the workplace – has started to intrude into the home.

5.2. Temporal boundaries

Some participants in the semi-structured interviews structured their working day and created clear boundaries around it by starting and finishing work at fixed pre-defined times:

'Yes, well, I will not open it [e.g. e-mail]. As I said, I'm strict with myself about giving the time I need for my job, and that's from nine to five. And beyond that, I want to have control over my own time. And then I don't allow clients to contact me privately. Remember that . . . I have over fifty cases in my portfolio, right, and for many of the clients, they feel a very strong commitment to their case. And that . . . Then I do not allow them to disturb me privately.' (Employee 4).

On similar lines another participant stated:

'We have fixed working hours from nine to three, or rather core working hours from nine to three. And then we can choose to start at seven or choose to start at nine and then work eight hours. So, it's either seven to three or nine to five or eight to four. So that's, in a way, the framework. And then, in the contract, we have some . . . at least in the job I have, I have a few hours of overtime included, which is anyway included in the salary that I get paid. So, it's kind of expected that at times, it can . . . You may have to work a little more.' (Employee 25)

The above quotes are from male employees – one relatively old and one relatively young. Similar statements were made by other male participants, old and young.

More male than female participants in the employee interviews stated that they start and finish their workday in the home at fixed times. However, a similarly clear temporal structure around their working day was perceived in women who either do not have young children at home during working hours (and have teenagers who manage on their own) or who have children who have moved away from home, such as the following employee:

'For personal reasons, I have chosen a somewhat traditional work strategy, since I am a morning person. I clock in early, and then I clock out around 3 or 4 p.m.' (Employee 11)

The above could perhaps be interpreted as a sign that women with young children are more likely than men to take responsibility for the so-called 'third shift' (Egeland et al., 2021), with the working day for such women thus becoming more fragmented and without clear boundaries.

By setting clear temporal boundaries around their working day, many interviewees have found it easier to demarcate when they are 'at work', though at home, and when they are not working. An advantage of this measure is that it makes it clear what role a person has – that is, whether one is

an employee, albeit working from home, or not. However, this measure – that is, having a clear eight to four or nine to five working day, is not practical for interviewees working from home during the pandemic who had young children since school in Norway tends to finish well before 4 p.m.

Many of the interviewees who structured their working day around a clear time frame, as explained above, have coupled this with technological measures that limit their availability outside normal working hours, for example, by switching off their computer and e-mail alerts on their phone, and perhaps by introducing specific measures for how they can be contacted if an emergency occurs. This was to ensure that one worked during the predetermined working hours, rather than at other times – or places – during the day outside the pre-designed workspace (e.g. the home office), such as when relaxing on the sofa in the evening.

Interviewer: ‘You have a mobile phone and probably have e-mail on it, but you turn it off, don’t you?’

Employee: ‘I have it such that I don’t get notifications after five o’clock.’

Interviewer: ‘No notifications after five o’clock, yes, so if your immediate manager, for example, needs to get hold of you, do they call or send you a message?’

Employee: ‘Yes, then she must call or send a message.’ (Employee 17)

Another participant has described it as follows:

‘No, I’ve chosen not to have [e-mail on my mobile phone]. There are people at work who are always logged in, and I sense that they get a bit stressed by it. I would be too. [...] there are a few times I’ve missed it, but mostly it’s good not to, to not have to, answer things and so on. So, I have to log on to the PC, and I switch it off when I log out, so I don’t go in and check it in the afternoon. If I log out at a quarter to four, I switch it off and don’t look at it until the next morning. But if it’s something very important, which is very, very rare, they’ll call. But if it’s important, and it’s rare, then it’s absolutely fine to call me.’ (Employee 12)

The focus group interviews with the employer representatives, as well as the follow-up interviews of each focus group, also highlighted the importance of clear temporal, technological and similar boundaries around the working day such as taking common breaks, dressing up for work and so on:

‘So, we’ve had several counselling and guidance sessions with employees to try to bring back the idea of getting up at the same time, and not least that they get dressed properly. Don’t just put on a jumper and sit in your underwear. Dress properly, eat your meals regularly and when you finish your working day – make it clear to yourself and to your family that now I’ve somehow “come home from work”. And that’s something we’ve received feedback on, that: “it was useful for me, now I can relax and get more peace”.’ (Private sector employer representative)

To bolster a clear demarcation of the working day, some employers in both the private and public sector have put in place routines and policies that restrict the sending of e-mails after office hours:

‘We pay close attention to when one stops reading e-mails, in order to make people think about when they send e-mails and what that signals. So, these stress-reducing measures are even more important now.’ (Private sector employer representative)

‘What we in the management section have become more restrictive on is that if you work in the evening, you should wait to send the e-mail until the next morning.’ (Public sector employer representative)

Though digitalisation and the use of digital tools to carry out and facilitate work have brought several benefits to employees, ‘such as increased flexibility and autonomy, [and] the potential to improve work-life balance’, as the European Parliament has observed, they have also given rise to a number of challenges, ‘such as intensifying work and extending working hours, thus blurring the boundaries between work and private life’ (Recital B, European Parliament Resolution of 21 January 2021 with recommendation to the Commission on the right to disconnect, hereinafter ‘European Parliament Resolution’). This is because, as the European Parliament put it, ‘particular difficulties arise when work is not tied to a specific place of work, when connectivity to work is constant and when work spills into family and private life’ (paragraph 8, European Parliament Resolution). With its resolution, the European Parliament proposed a directive on the right to disconnect, which is rather reminiscent of the temporal measures put in place by the interviewed employees. Though to date, there is no specific legislation either in Norway or at EU level on a right to disconnect, some EU countries have introduced legislation providing for some form of such a right (Eurofound 2023, p. 7),⁹ – that is, a right not to have to engage in work-related activities or communication by means of ICTs outside working time. Some of these jurisdictions also prohibit the less favourable treatment of workers who take advantage of this right (Eurofound 2023, pp. 9–10; Chung 2024, p. 91). As Chung (2024, p. 90) states, ‘legal mechanisms are needed to help protect the boundaries of private life and help protect workers’ right to rest’. Instead of defining and restricting the maximum number of working hours, ‘it may be better to legislate mechanisms to protect workers’ right to time and rest – recovery away from work’ (Chung 2024, p. 90). We believe that, in a world where the home as a (physical) privacy space for employees is disappearing, there is need to seek other constructs and approaches to provide privacy protection of the individual’s intimate zone which are not inextricably linked to the home as a physical location. The right to disconnect, typically discussed in the context of labour law, through which workers using ICT for work purposes are granted such a right, could be one such alternative.

5.3. *Visibility restrictions*

Collaborative platforms with audiovisual functionalities like Teams, Zoom, etc. allow users to hide themselves and to apply background filters to hide or blur their background (hereinafter referred to as ‘the filter functionality’). This affords users a measure of control over what is visible from their end. Many of the interviewees were also quite conscious about the position and direction of the camera and ‘styled’ their background, for example, by ensuring that the background captured by the computer camera looked neat or neutral. Is this a sign of increased sensitivity, among those who always or often work from home, to protect their private environment at home during working hours? Why and when do employees choose to use the filter functionality? Though there is little empirical data on this – and there is thus scope for more research on this issue – the structured interviews shed some light.

Some of the interviewed employees described when and/or why they use – or do not use – the filter functionality. Some said that their main objectives were to shield their children or other people living in the same house, and for aesthetic purposes, for example, to hide something that is less presentable:

⁹These are Belgium, Croatia, France, Greece, Italy, Luxembourg, Portugal, Slovakia and Spain. In addition, Ireland has adopted a code of practice which, though having no formal status in law, can be relied on by the courts when deciding upon the merits of a case (Eurofound 2023, p. 7).

Interviewer: ‘But do you ever use that thing there – because you have a thing that you can blur the background with, or have a false background or something like that, do you ever use that?’

Employee: ‘Yeah, I do that a lot.’

Interviewer: ‘But why and when do you use it, in a way, is it . . .?’

Employee: ‘I use it when the children are at home so that they are not caught by it.’

Interviewer: ‘Yeah, right.’

Employee: ‘Or, if I have to sit in a very unpresentable corner of the house for example. Because often, I have to sit in bed when the children are at home if I am teaching or have meetings.’ (Employee 21)

Another interviewee used a blurred background to remove a distracting element, while at the same time emphasising that he/she ‘had nothing to hide’:

Interviewer: ‘Then I can see that you use – what do you call it – blurred background. Then I can’t see directly into your living room. Is that something you’ve chosen yourself, or did [Employer] tell you that you should use it?’

Employee: ‘No, I’ve actually chosen that myself. We didn’t have Teams to begin with, and then it was kind of . . . People saw everything, I mean, I have nothing to hide, so I didn’t mind. But I just thought – let’s remove a distracting element. I know that some colleagues have gone for a different background, for example, as if they are in their hometown, or . . .’ (Employee 25)

The above quotation is an illustration of what has been termed by privacy scholars as a ‘misunderstanding of privacy’ (Solove 2007). As Solove (2007, p. 764) explains, ‘[t]he deeper problem with the nothing to hide argument is that it myopically views privacy as a form of concealment or secrecy’. Privacy protection is not about whether or not employees have ‘something to hide’ but can be linked to the fact that safeguarding societal values such as liberty is dependent on the autonomy, integrity and human dignity of the individual, as discussed earlier in this article.

Having visibility restrictions as a default setting in collaborative ICT tools, rather than a mere opt-in functionality as appears to be the case from our empirical data, is a privacy-enhancing measure. Moreover, it is in line with the requirement for privacy by default (Article 25(2), GDPR) and the data minimisation principle of the GDPR (Article 5(1)(c)). Nissenbaum (2010) proposes that one takes a contextual approach to privacy, focusing on the context within which data is flowing. In a work/employment context, one may perceive an informational inequality or asymmetry between employer and employee regarding what personal data is captured (aural, visual, textual, etc.) and transmitted to the employer. Some interviewees, for example, have indicated a tendency to use the filter functionality in meetings with clients but not so much with work colleagues.

‘I don’t need one of my clients [i.e. customers] to know where I live, but it could probably be ok for some – but it’s a bit about it being at work and at home, then. It’s different when you’re sitting with your colleagues, who may have visited you and – yes.’ (Employee 10)

We hold that visibility restrictions by default and clearer information or policies on how to use such technology (and opt-in, for those who wish for it in certain contexts) would serve to give employees individual control over such tools.

6. Concluding discussion

Despite the vast body of research on the effects of working from home for employees' physical and mental health and well-being produced both before but especially in the wake of the Covid-19 pandemic, there is scarce knowledge about the effect of working from home on our experiences and practices pertaining to privacy. Legal rules that seek to protect individuals' right to privacy need to be based on knowledge about how new technologies actually change the home, which has traditionally been perceived as the individual's ordinary dwelling. Combining sociological and legal approaches and methods is therefore highly relevant in the context of remote work from home. Exploring the implications of working from home through the lens of privacy, by combining sociological and legal methods, is innovative and provides insights that can pave the way for further research, policy development and regulation.

Labour market participation in Norway is high, reaching 72.8 per cent in 2023 (Køber and Horgen 2024), with both men and women participating. The working life is also well regulated by means of the Working Environment Act and is characterised by trust. This article has examined how working from home on a mandatory basis during the pandemic affected employees' perception of privacy in Norway, and what measures were taken by employees and employers to safeguard privacy. Our findings show that some employees experienced a blurring of roles – denoting an erosion of the personal zone of privacy – and some have perceived a blurring of physical space (workplace vs. home) – denoting an erosion of spatial privacy. An important point here is the finding that indicates that measures taken to set clear boundaries around work hours while working from home may also strengthen employees' abilities or possibilities to set clear boundaries for their private life at home, even if ICT tools have turned their home into a hub.

Although there may be several reasons for choosing to work from a designated place or setting the other aforementioned boundary limits (e.g. to avoid taking up common family areas such as the kitchen), and though some may not even have a choice on whether to have a designated space for work at home (due to lack of space or crowded living areas), one important effect of such measures is that the employee *excludes access* to the rest of their home – their private space – in the sense described by Koops et al. (2017, pp. 559–60). On the other hand, the use of visibility restrictions, such as the filter functionality, gives the employee *a measure of control* over the information (that may be gleaned from, e.g., photos, pictures, objects and persons that may otherwise be captured on camera) and places (areas) in the home once access was granted by the very fact that one was physically working from home.

The interviews indicate that the more sheltered or secluded a (physical) space an employee had at home that could be dedicated to work, the more likely that employee was to be positive about working from home. Other employees, such as those who worked from a space or room that is frequently used for other purposes, have described a collision of purposes vis-à-vis the same physical space, used as a workplace/workspace by the employee, and as an intimate (family) zone by family members.

Legal literature has noted that, as a privacy space, the home has a hybrid function, acting primarily as both a personal zone and an intimate zone (Cohen 2012, pp. 142–43). Though some spaces intended to receive visitors or for public display, such as parlours and unscreened windows, may act as semi-private or even public spaces in the home (Madanipour 2003, pp. 66–67; Liu 2011; Koops 2018), through the use of ICTs when working from home during the pandemic, other intimate spaces in the house, such as the bedroom, guest room or kitchen were brought into the semi-private zone. Or, taking the office as the starting point, the office (semi-private) has been

brought into the personal and intimate zones inside the home. There has thus been a blurring of physical spaces, with the semi-private intruding into the intimate zone as well as into the personal zone. What occurred during this exceptional period – a time of emergency – seems to be a further erosion of spatial privacy and a further ‘evaporation of the home’ (Koops 2014). Such evaporation occurs not only when ‘information that classically stayed in the house mov[es] outside the home, but also by the house becoming increasingly transparent for outsiders to look inside’ (Koops 2014). With the workplace intruding or taking over personal and intimate space, and the possibility for employers, work colleagues and clients to effortlessly access the house via ICT tools and platforms, the home is evaporating as the classic place where private life happens. As stated at the beginning of this article, seen through the lens of the ECHR the traditional approach to privacy at the workplace (presumed to be located outside the home) has been that the employee’s ‘privacy expectations can be reduced in the balancing of rights and interests’ that ECHR article 8(2) allows (Hendrickx and Van Bever 2013, p. 191). With the intrusion of the workplace (semi-private zone) into the intimate and personal zone of the home, deemed by the ECHR as ‘normally the physical space where private and family life develops’ (Schabas 2015, p. 399), and the gradual erosion of the home, the physical element in privacy is indeed becoming more elusive (Koops 2014). There is thus a need for new constructs, concepts and approaches to safeguard privacy. We hold that the boundary-setting measures employed by the employees to safeguard privacy shed light on what some of these additional constructs or approaches that safeguard privacy may look like – for example, exploring whether to introduce some form of a right to disconnect, as well as taking a contextual approach to privacy. Further research should continue to explore employees’ understandings and practices of privacy in different national legal contexts. Further research could also examine non-physical perceptions of the home in terms of emotional space and the labour involved in caring for the home space vs. the home as a workspace. Furthermore, in the aforementioned search for new constructs, concepts and approaches, one could revisit and reframe, through critical legal realism (Davis and Klare 2019), earlier feminist critiques of ‘the public/private divide’ where the market (workplace) – viewed as ‘public’ – is kept distinct from the ‘private’ sphere of the family (Boyd 1997), ‘allow[ing] government to clean its hands of any responsibility for the state of the “private” world’ (Lacey 1993, p. 97) (emphasis in original).

One final observation. During lockdown, instructions from employers mandating work from home (for those whose work could be performed from the home) were a measure to keep the organisation and the economy functioning, as much as possible, during a period of public (health) emergency. Now that the pandemic is over, such instructions have been lifted, but the technological tools that facilitate working from home are here to stay. Positive experiences of working from home (pertaining to, e.g. more flexibility, less stress) during a mandatory period now seem to have set a trend towards a growing number of employees opting to work from home for one or more days a week on a more regular basis making working from home gradually becoming the ‘new normal’ (Ingelsrud et al. 2022). Addressing the fissures made in the physical notion of privacy through new constructs and approaches, as suggested above, has thus become imperative.

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