

# *The “Meaning” of Privacy*

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# Is Privacy a Right or a Privilege?

- **Psychological** – basis of privacy rights is autonomy and dignity of the individual. Privacy contributes to sense of personal security;
- **Philosophical** – public/private dichotomy is often invoked in relation to the legitimacy of expectations of privacy;
- **Economic critique** – concealment or selective disclosure of information is usually to manipulate others, or for private economic gain, and thus protection of privacy is less defensible than previously thought because it does not maximize wealth;
- **Feminist critique** – granting special status to privacy is detrimental to women because it is used as a shield to dominate and control them, silence them, and cover up repression and abuse;
- **Legal basis** – Human rights/international law perspective; Constitutional Law; Common Law; Statutes.



# Hegel vs. Locke

- Hegel, in his *Phenomenology of Mind*, asserted that “it is only by being acknowledged, or ‘recognised’,” that a person is known to exist;
- Locke emphasised how personhood entails a consciousness of being the same identity over time – his ideas implicitly lie behind authentication in Identity Management (IDM) systems;
- In Europe, the law reflects a Hegelian sense that the person has a property interest in being able to control personal data;
- In the United States, the law reflects a Lockean sense that people reign over their separate private spheres and have defensive liberties against the state.



# Brandeis and Privacy

- Samuel Warren and Louis Brandeis, *The Right to Privacy*, Harvard Law Review, vol. 4 (1890);
- *Olmstead v. United States*, 277 U. S. 438 (1928);
- “*Privacy is the most comprehensive of all rights... the right to one's personality*” – Louis Brandeis;
- “*Privacy is the right to be let alone.*” — Clarifying response from Judge Thomas Cooley, a contemporary of Louis Brandeis.



# Privacy for Groups

- **Generally** – the right of individuals to associate privately with each other has long been recognized in certain contexts;
- **Genetic testing** – the right of an individual to know his or her DNA and information provided by it potentially conflicts with the (group) privacy rights of his or her family members;
- The right to *not* know.



# Cultural Differences in Concepts of Privacy

## Differing expectations of privacy:

- Asia
  - Europe
  - North America
  - Societal, Tribal, Nomadic, etc.
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- Daniel Solove argues that while there are cultural differences in the value accorded to privacy and expectations of privacy, most, if not all, cultures value privacy and the similarities outnumber the differences;
  - Moreover, countries draw upon other countries' views to inform their understanding of privacy problems and solutions.



# Other Views of Privacy

**Anita Allen Castellitto's definition:**

Four Types of Privacy:

1. Informational
2. Physical
3. Decisional
4. Proprietary



# Information Privacy Defined

## Information Privacy: Data Protection

- Freedom of choice; personal control; “Informational self-determination;”
- Control over the collection, use and disclosure of any recorded information about a personally identifiable individual.

*It's all about user control ... freedom of choice*



# Daniel J. Solove: *Understanding Privacy*

- Solove argues that, “*We must abandon the binary view of privacy, which is based on the archaic notion that if you’re in public, you have no claim to privacy. Instead, we must recognize that privacy involves accessibility, confidentiality, and control.*”

— Daniel J. Solove, *Understanding Privacy*, 2008



# What Privacy is Not

**Privacy  $\neq$  Security**

*Security is, however, vital to privacy,  
but privacy subsumes a much broader set  
of protections than security alone.*



# Privacy is *Not* About Having Something to Hide

*Don't Hide  
Behind Privacy*





# Privacy ...

*It's about freedom of choice,  
personal control,  
maintaining spheres of solitude,  
reserve, autonomy, intimacy ...*

*It's all about user choice, user control*



*Privacy = Freedom*



# How to Contact Us

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