

# The Right to Privacy

Multimedia Training Kit  
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# Outline

- **Session 1: Introduction**
  - What is privacy?*
  - Privacy in international instruments*
  - Privacy across cultures and contexts*
- Discussion
- **Session 2: Privacy, the internet and ICTs**
  - Challenges to privacy*
  - The impact of the internet and ICTs on privacy*
  - Implementation, enforcement, enjoyment and violation of privacy*
- Discussion
- Break
- **Session 3**
  - Case studies
  - Discussion of implications for your work
  - Feedback and conclusions

# Session 1 - Introduction

# Defining Privacy

- Right to be left alone
- Right to determine who has information about you
- Right to make autonomous choices about your life

# Universal Declaration of Human Rights 1948

## Article 12

“No one should be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks on his honour or reputation. Everyone has the right to the protection of the law against such interferences or attacks.”

# International Covenant on Civil and Political Rights 1966

## Article 17

1. No one shall be subject to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

# European Convention for the Protection of Human Rights and Fundamental Freedoms 1950

## Article 8

- (1) Everyone has the right to respect for his private and family life, his home and his correspondence.
- (2) 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 of morals, or for the protection of the rights and freedoms of others.

# Right to protection of personal data

- The Organisation for Economic Co-operation and Development (OECD) Guidelines on the Protection of Privacy and Transborder Flows of Personal Data 1981
- The Council of Europe Convention for the Protection of Individuals with Regard to the Automatic Processing of Personal Data 1985
- The Charter of Fundamental Rights of the European Union 2000, Article 8

# Permissible limitations on the right to privacy

1. In accordance with the law
2. In pursuit of a legitimate aim
3. Necessary in a democratic society

# Privacy across cultures

## Woman Decapitated In Mexico For Posting On Internet



MARK STEVENSON | 09/24/11 11:25 PM ET

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MEXICO CITY — Police found a woman's decapitated body in a Mexican border city on Saturday, alongside a handwritten sign saying she was killed in retaliation for her postings on a social networking site.

The gruesome killing may be the third so far this month in which people in Nuevo Laredo were killed by a drug cartel for what they said on the internet.

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## China plans to track Beijing citizens through their mobiles

Government claims technology will ease transport congestion, but experts warn it could be used to control dissent

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Janina Branigan in Beijing  
guardian.co.uk, Friday 4 March 2011 14:22 GMT  
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# Discussion

# Session 2 – Privacy, the internet and ICTs

# Constitutional protections of privacy

## **Pakistan**

Article 14.

(1) The dignity of man and, subject to law, the privacy of home, shall be inviolable.

## **Saudi Arabia**

Article 37. Home

The home is sacrosanct and shall not be entered without the permission of the owner or be searched except in cases specified by statutes.

Article 40. Communication

Telegraphic, postal, telephone, and other means of communications shall be safeguarded. They cannot be confiscated, delayed, read or listened to except in cases defined by statutes.

## **Central African Republic**

Article 13 [...] Privacy of correspondence as well as that of postal, electronic, telegraphic and telephonic communications are inviolable. Restrictions may only be prescribed for the above by application of a law. [...]

Article 14 [...] The home is inviolable. It may only be interfered with by a judge and if there is a danger to the dwelling place by the other authorities designated by law, held to execute it within the forms prescribed herein. The measures affecting the inviolability of the home or the restriction will be taken to avoid a public danger or to protect persons in peril. These measures may be taken in application of the law in order to protect the public order against imminent dangers notably to fight against the risks of epidemic, fire or to protect persons in danger.

## **Nepal**

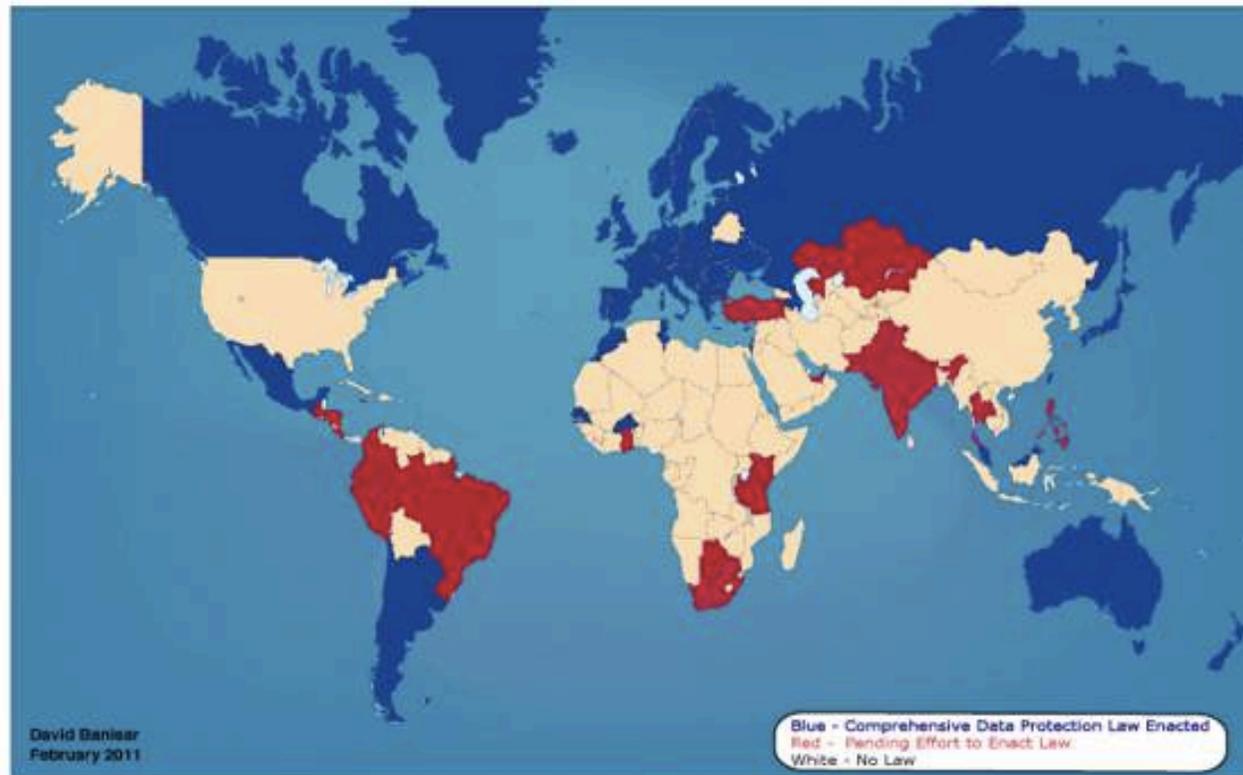
Article 22. Right to Privacy

Except as provided by law, the privacy of the person, house, property, document, correspondence or information of anyone is inviolable.

(Interim Constitution)

# Challenges to privacy – Data protection

**Data Protection Laws Around the World**



# Challenges to privacy – Identity issues

## Electronic chip in national ID card lasts five years, Eida says

This the reason for the card's five-year validity for Emiratis, the authority says

Staff Report

Published: 17:04 March 9, 2011

GULF NEWS



Emirates ID card

Image Credit: Supplied

Image 1 of 2 [1](#) [2](#)

Abu Dhabi: The Emirates Identity Authority (Eida) has fixed a five-year validity for Emiratis' national ID card because of the five-year life span of the electronic chip

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## India is rolling out identity cards

Despite its aim to empower the poor, India's \$10bn identity card project has had little debate

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Posted by  
Priti Patnaik Wednesday  
2 March 2011 07:00 GMT  
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Indians displaying voter identity cards during the Jharkhand State Assembly



# Challenges to privacy - Surveillance

The New York Times

## Middle East

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### Egyptians Get View of Extent of Spying



Andrea Bruce for The New York Times

Egyptian protesters looted a trove of files on Saturday in Cairo after breaking into the headquarters of the secret police. Some of the files have since been published.

By LIAM STACK and NEIL MacFARQUHAR  
Published: March 9, 2011

JakartaGlobe  
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### Activists Want Wiretapping Safeguards

Elisabeth Oktofani | March 26, 2011

#### Related articles

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Court Deals a Blow to Wiretap Investigations 11:35pm Feb 24, 2011

Indonesian Police Chief Ready to Face House Over Wiretap Fiasco 11:57pm Aug 12, 2010

Indonesia must have a law focused solely on the mechanisms, controls and procedures on wiretapping, human rights organizations say.

Zainal Abidin, deputy director of the Institute for Policy Research and Advocacy (Elsam), said on Friday that articles on wiretapping in existing regulations failed to protect the right to privacy.

Zainal's comments came as the House of Representatives debates a new national intelligence bill, with legislators seeming to favor the idea of giving the National Intelligence Agency (BIN) the power to conduct wiretaps and track money trails without court permission.

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# Challenges to privacy – Vulnerable groups

## BANGLADESH: New ID card policy could hit Rohingya asylum-seekers

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Photo: Misha Hussain/IRIN

New ID card will make it even harder for Rohingya men to get work

DHAKA, 29 March 2011 (IRIN) - The introduction of national ID cards may lead to further institutionalized discrimination of Burmese Rohingya asylum-seekers (unregistered refugees) living in southeastern Bangladesh, experts warn.

A report by US-based NGO Refugees International to be released next month is expected to highlight how lack of access to public services and gainful employment for non-ID card holders will contribute to severe food insecurity for the Rohingyas.

The new national ID card, to be rolled out by the government and the World Bank this summer, will replace the 2008 voter registration card which had until now been used unofficially as a means of identification.

"Unregistered Rohingyas can no longer enrol their children in schools or obtain birth registration since the roll-out of the voter registration cards. Without the national ID card, they may also lose access to health services and micro-credit programmes," Lynn Yoshikawa, report author for Refugees International, told IRIN.

Over 200,000 unregistered Rohingya refugees, who are not eligible for the ID card, are expected to be affected by the scheme, which will be implemented over the next five years.

The new ID cards will state the holder's occupation. Consequently, many of the jobs that the Rohingya do for survival will now become harder to access, Chris Lewa from the Arakan project, the world's leading organization on Rohingya refugees, told IRIN.

Over the past year the Bangladesh government has taken steps to regulate workers in the fishing, construction and garment industries, she said.

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## Brazil votes for compulsory registration of pregnant women

05-01-2012

Brazilian President Ms. Dilma Rousseff enacted a legislation that will require all pregnancies to be registered with the government. The Provisionary Measure 557 (PM 557) has created a "National System of Registration, Vigilance and Monitoring Women's Care during Pregnancy and Post Childbirth for the Prevention of Maternal Mortality".

Under PM 557, both public and private health providers must report all pregnancies to the National Registration System so the state can then track these pregnancies, from prenatal to postpartum care, presumably to evaluate and monitor health care provided. The 'provisional measure' voting mechanism is normally used for urgent matters, as it allows the President to pass a law without congressional approval. What is worst, is that discussion was organized with women's health organizations.

According to MP 557, which took effect on December 27 2011, the system "aims to ensure better access, coverage and quality of maternal health care, notably for pregnant women at risk"

and it is "constituted by the universal registration of pregnant and puerperal women, so as to enable identifying pregnant and puerperal women at risk, and evaluating and following up on the health care they received during the prenatal stage, childbirth and puerperium". Registered pregnant women will have the financial benefit of up to R\$50.00, to help with their transfer to healthcare facilities for prenatal follow-up and childbirth assistance.

Brazilian and Latin American CSOs are seriously worried, as the measure not only does not guarantee to reduce maternal mortality, but can be also a way to pursue those women who

# Government use of and access to data

- Personal data is used for a number of purposes:
- Governance and the delivery of public services
- Law enforcement
- Identity management and social sorting
- Surveillance of communications and behaviour



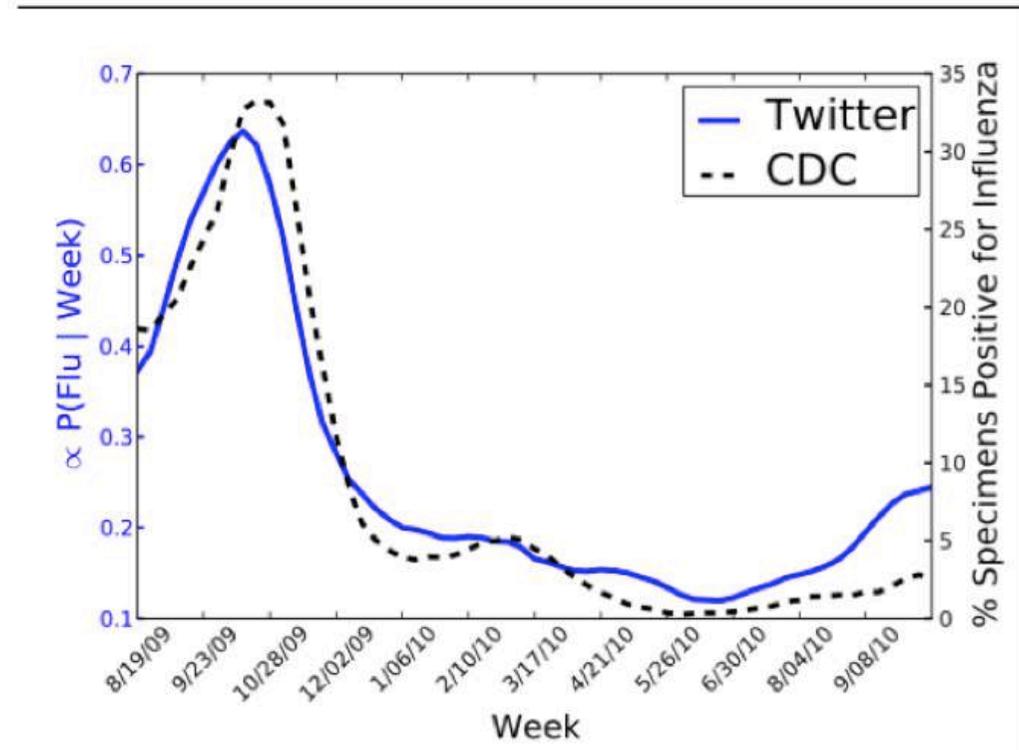
# Data protection principles

- Collection limitation
- Data quality
- Purpose specification
- Use limitation
- Security safeguards
- Openness
- Individual participation
- Accountability
- No data retention

# Corporate use of and access to data

- Behavioural advertising and profiling
- Data mining
- Big data

Figure 7: Twitter-based vs. Official Influenza Rate in the U.S.



# Legal frameworks

- Terms of service/user agreements
- Data protection
- Government access to corporate data

# Third party use of and access to data

- Online fraud and hacking
- Media privacy and defamation
- Anonymity and real-name registration laws

# Discussion

# Session 3

# Case study 1 – India's UID

- *What are the implications of the UID for the right to privacy?*
- *Where should the balance between privacy and security lie?*
- *Is keeping track of Indian citizens and providing them with public services more important than respecting their privacy rights?*



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29 September 2010 Last updated at 13:31

## India to compile 'world's biggest' ID database

India has launched a huge national identity scheme aimed at cutting fraud and improving access to state benefits.

Using biometric methods, including an iris scan, the system will log details of India's population of more than one billion people on a central database.

It was launched by Prime Minister Manmohan Singh and Congress party leader Sonia Gandhi in western India.

The data will be stored online in what India says will be the biggest such national database in the world.

The unique identification (UID) programme will help those in poor, marginalised communities



# Case study 2 – Mining consumer data

- Has Sarah's privacy been violated? Why/why not?
- What obligations did Target have with regards to the personal information they collected about Sarah?
- What opportunity did Sarah have to control the information that Target held about her?

# Case study 3 – Real-name registration in Asia

- Does real-name registration promote respect for the right to privacy?
- Does anonymity encourage individuals to violate others' privacy?
- How should the balance be struck between privacy and freedom of expression when it comes to real-name registration?



The image shows a screenshot of a news article from the website NEWS CHINA. The article is dated 28 December 2012 and was last updated at 12:58. The headline reads "China approves tighter rules on internet access" and has 687 comments. Below the headline is a photograph showing several people standing in a line at what appears to be a public internet access point. The stations are branded with the ASUS logo and the text "华硕免费上网区" (ASUS Free Internet Service). The caption below the photo states: "Hundreds of millions of people in China use the internet, although its content is closely monitored by the authorities."