

# CONCEPTUAL FRAMEWORK OF PRIVACY

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## ABSTRACT

*This paper attempts to review the conceptual and theoretical framework of Privacy and how privacy may be categorized into Value-based and Cognate based-privacy. The paper further explains about what Value-based privacy refers to and how it evolves from legal and economic perspective. The paper also explains about what Cognate-based privacy means and how it relates to cognition and perception and an assertion of control. Finally, the paper goes on explaining about what privacy is not and how privacy can be distinguished from anonymity, confidentiality, secrecy, security and ethics.*

**KEYWORDS:** Privacy, Values, Natural Right, Disignity

## CONCEPTUAL FRAMEWORK

In the absence of incomplete and empirically invalidated definition of “Privacy” and its relationships with other constructs, Smith et al. (2011) characterized privacy as either “Value- based” or “Cognate-based” (Smith et al., 2011; Mahmood, 2014; Taylor et al., 2014). “Value- based privacy” refers privacy as “human right integral to society’s moral value system” (Smith et al., 2011, PP. 992-993; Luo, 2002) and evolves from economic (Rust et al., 2002) and legal perspective (Taylor et al., 2014). “Cognate-based privacy” refers to “the individual’s mind, perceptions, and cognition rather than to an absolute moral value or norm” (Smith et al., 2011, PP. 993) or, in other words, a condition of mind (Westin, 1967; Alpert, 2003) or/and “assertion of control” (Milne & Culnan, 2004).

## VALUE-BASED PRIVACY

### Privacy as a Right

There have been numerous debates about “privacy” to be treated as a “human right” and must be protected if one views “privacy” through the lenses of political and legal framework (Milberg et al., 2000), however some scholars claim that “privacy” can not be regarded as “absolute” as it may be in conflict with different societal and legal structures depending upon various culture (Possner, 1984). For example, based on British perspective, US constitution did not spell out “privacy” and the court did not mention it in any of the court verdict as a “protected right” until the 20th century (Richards and Solove, 2007), however US scholar, Warren and Brandeis (1890) traced the “right to privacy” in US constitution and later, US Supreme Court provided

constitutional sanction to it (Breckenridge, 1970 in Smith et al., 2011). Some of the prominent court cases in US history include private facts exposure, embryos and abortions, seizures and searches, sex tapes, intrusion, psychological or mind-control and psychological testing, celebrity culture and lifestyle monitoring (Alderman and Kennedy, 1997 in Smith et al., 2011). These court cases made scholars ponder about seeking more specific definition of “Privacy”(Smith et al., 2011) then mere “need to be left alone” (Warren and Brandeis, 1890, PP. 193) and whether “state” has a responsibility to protect “Privacy as a Right”. The court, through Younger Committee

Report in 2007, came to conclude that the absolute definition of “privacy” cannot be satisfactorily given. The second issue about state-responsibility provided two opposing perspectives among social and legal scholars (Smith et al., 2011). The “for” perspective recognized the responsibility of the state as a “protector” (Rosen, 2000 in Smith et al., 2011), thus referring Privacy as a Right” to a social phenomenon pertaining to “policy consideration”, whereas the “against” perspective considered “privacy” as a market-based economic commodity (Smith et al., 2011).

### Privacy as a Commodity

Bennett (1995) coined the term based on “libertarian” view and assigned “privacy” an economic value based on “cost-benefit analysis” and “trade-off” at both the individual and societal level. Under this perspective, Libertarian social scientists claim that privacy is not “absolute” and is based on “self-surveillance” in which individuals voluntarily provide information about themselves in an exchange for foreseeable economic benefits

(Davies, 1997; Campbell & Carlson, 2002). However, it is not very clear that libertarians' view of "Privacy as a Commodity" resulted from an "individual shift" or from a scholarly-paradigm-shift. This "Commodity-based view of privacy" gave rise to "Cognate-based Privacy"(Smith et al., 2011).

**COGNATE-BASED PRIVACY**

**Privacy as a State**

Westin (1966) coined the term and provided the more arduous definition of "Privacy as a State" as a "voluntary and temporary withdrawal of a person from the general society" (PP. 7). Later Weinstein (1971) compared "privacy" with solitude, estrangement, banishment and isolation and found that "privacy" was valued the most by the society and all the other terms were supposed to be punitive. He further defined "privacy" as being at a distance from others. Laura and Wolffe (1977 in Smith et al., 2011) proposed "privacy" as a "situational concept" and was linked to the dimensional aspects of relational, environmental and self-image. However, Schoeman (1984, PP. 3) describes it as "a state of limited access to a person". Furthermore social scientists, technologists and economists restricted this to "state of limited access to information" (Smith et al., 2011).

**Privacy as a Control**

Altman (1975) and Westin (1966) coined the term "Privacy as a Control" and based on Altman's definition, it is "the selective control of access to the self" (Smith et al., 2011, PP. 24). Here, "Privacy as a Control" refers to the "ability to control" and has been further developed by research scholars who have attributed this to "information privacy" (Smith et al., 2011) and has been used in operationalizing "privacy" in various instruments of measurements (Kelvin, 1973; Smith et al. 1996 in Smith et al., 2011). Laufer and Wolffe (1977 in Smith et al., 2011) considers "privacy" to be shaped by "control" to some extent and a situation may not be perceived as comprising of "privacy" because individuals feel, sense and exercise control. Although there have been very little theoretical attempts to elaborate the character of "control" in "privacy literature" (Margulis, 2003a), the concept of "Privacy as a Control" is ancillary and is based on the effectiveness of needs-satisfaction (Johnson, 1974). However Margulis (1977a, PP. 10) provided a well-defined control-centered concept of "privacy" and stated, "Privacy, as a whole or in part, represents the control of transactions between person(s) and other(s), the ultimate aim of which is to enhance

autonomy and/or to minimize vulnerability". Based on the instances and circumstances surrounding the above characterization of "privacy" (Value-based & Cognate-based) surrounding technological innovation and emerging technologies, the concept of "Privacy" has been divided into the following seven types of privacy:

Types of Privacy	Definitions & Examples
"Privacy of the Person"	Privacy of "body functions" and "body characteristics". Examples: X-rays, Biometrics, Brain Scanners, Body Cameras, Metal Detector, Hand Searches, DNAs Sequencing, EM Mind- Control & EEG (Brain-Computer Interface).
"Privacy of Behavior and Action"	Privacy of "sexual preferences and habits", "religious practices" and "political activities" both in private and public space. Examples: CCTV, Brain Scanners, Biometrics, X-rays, Metal Detectors, RFIDs, UASs, Brain-Computer Interface etc.
"Privacy of Communication"	Avoiding "interception", "access" or "recording" of mail, email(s), text-message(s), phone-call(s) or wireless communication, use of directional microphone(s) or bug(s). Examples: Brain- Computer Interface, Malware, Adware, Spy Software.
"Privacy of Data & Image" (Information Privacy)	Providing protection from accessing, disclosing or/and distributing personal data, image(s) or/and video(s) without consent. Maintains "balance of power" between individual(s) and state. Examples: CCTV, Metal Detectors, X-rays, RFIDs, UASs, DNAs Sequencing, Brain- Computer-Interface
"Privacy of Thoughts and Feelings"	Privacy of "mind", psychological freedom. Also maintains "balance of power" between individual(s) and state. Examples: EEG & EM Mind-Control (Brain-Computer Interface).
"Privacy of Location and Space"	Protection from being "tracked", "identified" or/and "monitored" while moving in semi-public or public space. Right to "privacy" at home, office, car or any other such space. Examples: RFIDs, Brain-Computer Interface, UASs, DNAs Sequencing.
"Privacy of Association"	Protection from being monitored as it relates to political outfit(s), religion(s) or/and any other form of association. Examples: UASs, DNAs Sequencing.

**Sources:** ICO (2014), Friedwald et al. (2013), Klitou (2014), McFarland & Walpaw (2011), Binhi (2009) & Thomson (2008).

**WHAT PRIVACY IS NOT/MAY NOT BE**

**Anonymity**

Anonymity enables a person to willingly hide

his/her identity and is influenced by “privacy enhanced technology”. It is basically a form of “privacy-control” and is mostly used to prevent from information being collected for statistical purposes (Camp, 1999; Smith et al., 2011).

### Confidentiality

The derivation of confidentiality, on the line of “Privacy as a Right”, depends upon societal culture. For example, American definition of “privacy” is based on “individualism”, whereas British equates “privacy” with “confidentiality” (Richards & Solove, 2007). However based on well-defined distinction between “privacy” and “confidentiality” in literature, “privacy” refers to controlling the release of personal information, whereas “confidentiality” refers to limit the disclosure of “personal information to an information custodian under an agreement that limits the extent and conditions under which that information may be used or released further” (Smith et al., 2011, PP. 994; Camp, 1999).

### Secrecy

Secrecy has negative connotation and refers to intentionally concealing information that is considered inaccurate, “manipulative” and disparaging by external stakeholders whereas, privacy has positive connotation and is appreciated by society (Bok, 1989; Warren & Laslett, 1987 in Smith et al., 2011). According to Bok (1989, PP. 11), “Privacy need not hide; and secrecy hides far more than what is private”.

### Security

There is a lack of clarity in IS literature about how “security” and “Privacy” are inter-related (Belanger et al., 2002 in Smith et al., 2011). “Security” refers to protecting personal information with three main objectives: (i) “Integrity” of information so as not to be changed during storage and transit, (ii) “Authentication”, verifying the admissibility and identity of user(s) before accessing the data, and (iii) “Confidentiality”, limiting the data-access to authorized people for the legitimate purpose (Camp, 1999). Hence, “security is necessary for privacy, but security is not sufficient to safeguard against subsequent use, to minimize the risk of...disclosure, or to reassure users” (Ackerman, 2004, p. 432).

### Ethics

Although there are ethical perspectives attached to “privacy” as various IS literature suggests across numerous disciplines (Culnan & Williams, 2009; Ashworth & Free, 2006 in Smith et al., 2011), “privacy” must be

acknowledged and protected and must not be equated with “ethics” and one can still go ahead about conducting empirical study of privacy research without considering the ethical construct (Smith et al., 2011).

### ACKNOWLEDGEMENT

I would first like to thank Prof. Art Langer of the School of Professional Studies at Columbia University in the City of New York. The door to Prof. Langer’s office was always open whenever I ran into a trouble spot or had a question about my research and writing. He consistently allowed this paper to be my own work, but steered me in the right the direction whenever he thought I needed it. I would also like to thank Prof. Chrisanthi Avegrou of the Department of Management at London School of Economics & Political Science. Without her passionate participation and input, the theoretical and conceptual reconstruct of privacy could not have been successfully conducted. Finally, I must express my very profound gratitude to my parents and to my siblings for providing me with unfailing support and continuous encouragement through the process of researching and writing this paper. This accomplishment would not have been possible without them.

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