The Right to Privacy
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.
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 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

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

Annia Branigan in Beijing

guardian.co.uk, Friday 4 March 2011 14.22 GMT
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
Challenges to privacy – Identity issues

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

Staff Report
Published: 17:04 March 9, 2011

GULF NEWS

United Arab Emirates
Identity Card

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

Emirates ID card
Image Credit: Supplied

India is rolling out identity cards

India’s $10bn identity card project has had little debate

Poverty Matters Blog
In partnership with Bill & Melinda Gates Foundation

Previous Blog home Next

India is rolling out identity cards

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

India is rolling out identity cards

Indians displaying voter identity cards during the Jharkhand State Assembly

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DNA and biometrics

National DNA Databases 2011
Challenges to privacy - Surveillance

The New York Times

Middle East

Egyptians Get View of Extent of Spying

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 MUFARQUHAR
Published: March 9, 2011

Jakarta Globe

Activists Want Wiretapping Safeguards

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

Zainel 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.

Zainel’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

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 send their children in schools or obtain BM registration since the risk-out of the voter registration cards," said Lynn Yoshikawa, report author for Refugees International, told IRIN.

"Unregistered Rohingyas also no longer receive the social benefits provided by the ID card, as the new card is expected to make it even harder for Rohingya men to get work."

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.

Recently, many of the jobs that the Rohingyas do for survival will now become harder to access on the ID cards," said 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.

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 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 also be 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

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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
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
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?
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?