

# LAW & DATA

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*University of Padova*

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# WHAT IS PRIVACY?



# PRIVACY

**NEGATIVE**

**POSITIVE**

**prevention  
of intrusions**

**exclusion**

# PRIVACY

1890

S. Warren // L. Brandeis

## RIGHT TO BE LET ALONE

**«most comprehensive of rights and the right most valued by civilized men»**

- right to reputation
- right to honour and moral integrity
- right to one's own image
- right to private/family life
- right to non-interference
- personhood / protection of identity and dignity
- ...
- right to control personal information

## COMMON LAW ORIGIN

distinction between what is private from what is public



# PRIVACY

**Common Law tradition**

**Civil Law tradition**

**RIGHT TO LIBERTY**

**RIGHT TO DIGNITY**



# (RIGHT TO) PERSONAL DATA

**«Everyone has the right to protect personal data concerning him or her»**

Article 8(1) CFR

## PERSONAL DATA ?

*«any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person»*

Art. 4(1)(1) GDPR

## CIVIL LAW ORIGIN



# Right to PRIVACY & PERSONAL DATA

- 'same, but different'
  - intertwined
- different, but overlapping

## HUMAN RIGHTS

**rights belonging to individuals as human beings**  
regardless of race, sex, nationality, ethnicity, language,  
religion or any other status

# History - **RIGHT TO PRIVACY**

## ➤ **UN Universal Declaration of Human Rights (1948)**

### **Article 12**

*No one shall be subjected to **arbitrary interference** with his privacy, family, home or correspondence, nor to attacks upon his **honour and reputation**. Everyone has the right to the protection of the law against such interference or attacks.*

## ➤ **International Covenant on Civil and Political Rights (1966)**

### **Article 17**

*1. No one shall be subjected 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.*



# History - **RIGHT TO PRIVACY**

## ➤ **UN Convention on the Rights of the Child (1989)**

### **Article 16**

**No child** shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation.

**The child** has the right to the protection of the law against such interference or attacks.

# History - **RIGHT TO PRIVACY**

## ➤ **European Convention of Human Rights (1950)**

### **Article 8 – Right to respect for private and family life**

*1. Everyone has the right to respect for his private and family private 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 or morals, or for the protection of the rights and freedoms of others.*