

Actors and responsibilities in privacy protection

Who should act (now)?

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Question: Does the current division of responsibilities in privacy protection work to actually protect privacy? If not, can 'code as law' fill the gap of privacy protection?

- Actors and their responsibilities
- Does it work?
- Why not?
- The role of PETs and PITs
- Towards new responsibilities

Actors and their responsibilities

Actor	Responsibility
Constitution-maker	Stipulate right to privacy
Legislature	Make privacy-compliant laws
DPA	Supervise privacy compliance
Court	Punish privacy violations
Public organisation	Be privacy-compliant
Private organisation	Be privacy-compliant
Privacy activist, NGO	Fight for privacy
Academic	Explain privacy
Citizen	Enjoy privacy; cherish privacy
Consumer	Protect basic level of privacy
Media	Report fairly on privacy
Technology developer	What do you mean, responsibility?

Does it work?

Actor	Responsibility	Good job?
Constitution	Stipulate	Yes, but: broad exceptions
Legislature	Legislate	So so: DP Acts, but: too complex No: privacy-diminishing laws abound
DPA	Supervise	So so: too friendly, toothless, divided, DP-blinded
Court	Punish	Seldom; contra: Khan; Lindqvist; PNR
Pub. org.	Be compliant	Yes, with minor and some major exceptions
Priv. org.	Be compliant	Yes, with some major exceptions
Activist	Fight	Nice try
Academic	Explain	Poor job
Citizen	Enjoy, cherish	No, with some exceptions
Consumer	Protect	No, with few exceptions
Media	Report fairly	So so: often biased and hype-following/creating
Tech. developer	None	Excellent job

Why doesn't it work?

- (Pre- and) post-9/11 security hype
- People have nothing to hide these days
- The US / CIA / NSA are too powerful
- Poor understanding of value of privacy
- Reducing privacy to data protection
- Reducing data protection to privacy
- Outlandish data-protection laws
- Outdated data-protection laws
- Outdated privacy laws
- Wrong division of responsibilities
 - “They” will / should / must take care of it
 - Technology is treated as neutral

The role of PETs and PITs

- The promise of PETs remains a promise
- Many new technologies have PET potential
 - but there are no real PET incentives
- And so in real life, they often turn out PITs
 - e.g. mobile phones, biometrics, RFID, DNA forensics
- As a result, privacy is slowly disappearing
- To counter this, should we bet on PETs?
 - Yes: first blow is half the battle (value-embedded design); cost-efficient enforcement; global reach
 - No: why should they suddenly work now?; no business case; risk of over-enforcement; wrong signal

Towards new responsibilities

- Technology developers are given responsibility for privacy-aware development
 - moral, legal, professional, financial, market?
- Governments create incentives (carrots, not sticks) for technology developers and application providers to implement PETs
- Still, major responsibilities remain for other actors
 - a chain is as strong as its weakest link
 - so all actors must live up to their responsibilities
 - without being able to hide behind others' responsibilities
- Conclusion: with the help of PETs, a collective effort could still save privacy from disappearing
- So ALL must act NOW

Dream on...

(moral support
is welcome at
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Thank you