Data Protection Law
Some Concepts and Principles

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COL865 Special topic on Computer Applications - Digitization and Privacy

Our Conversation - Today & Friday

1. Objectives of Data Protection

2. Key Concepts & Principles

3. Outline of Data Protection Law in India

Our Conversation - Today

1. Objectives of Data Protection
   - *How is data protection different from privacy? Is it?*
   - *What are the objectives driving laws on data protection?*
   - *What do "data protection laws" look like?*
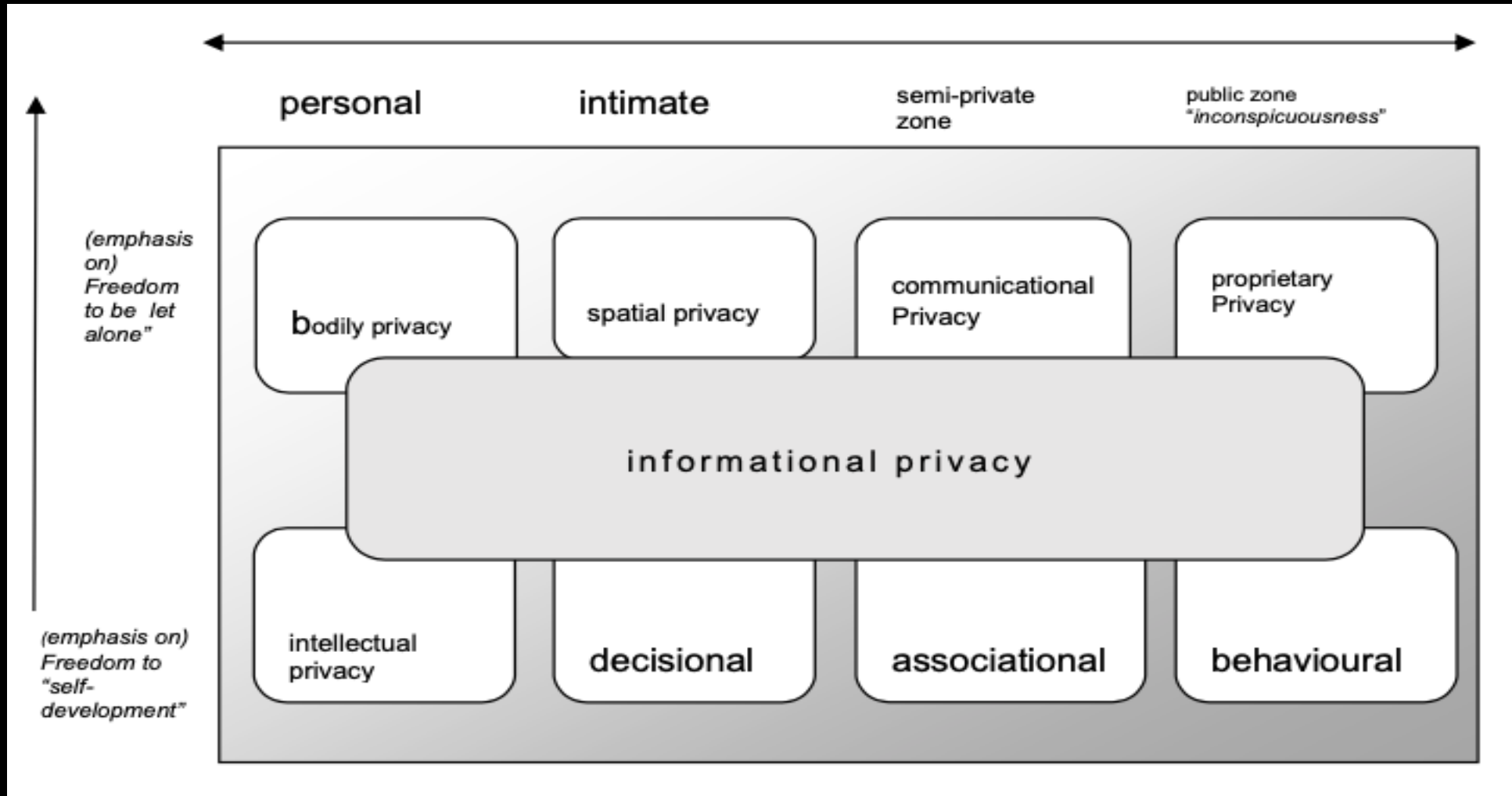
2. Key Concepts & Principles
   - *Six general concepts that most data protection laws try to address*

1. Objectives of Data Protection

1. *How is data protection different from privacy? Is it?*

Data protection → Privacy → Informational Privacy → Personal data → Data protection
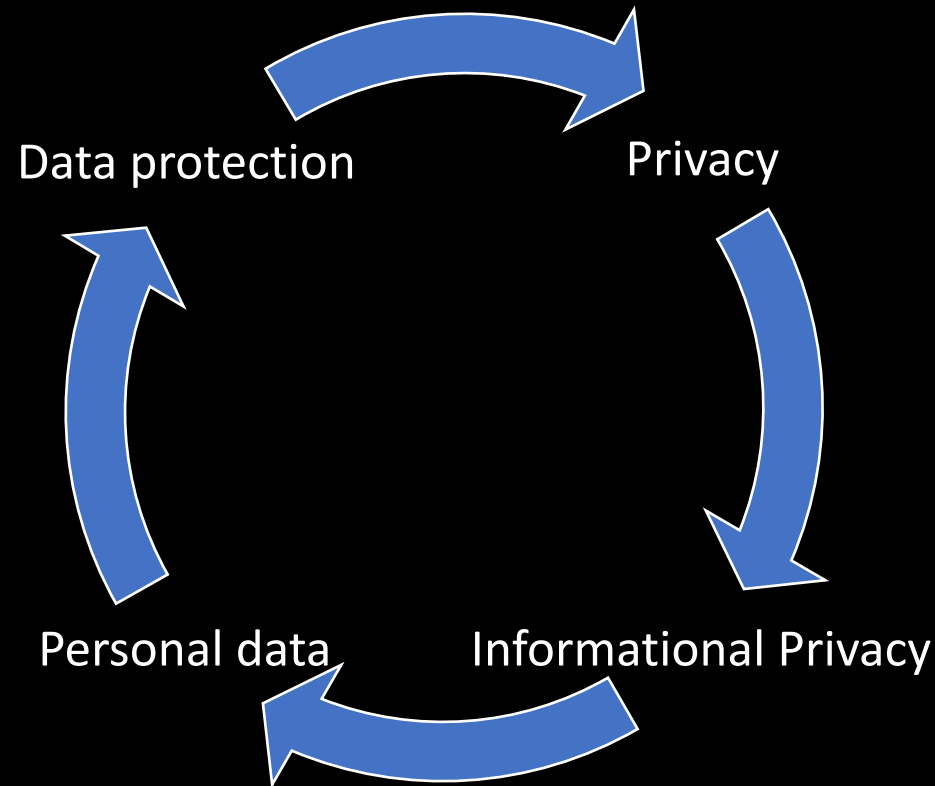
A Typology of Privacy

Bert-Jaap Koops et al., "A Typology of Privacy", *University of Pennsylvania Journal of International Law* (2017), Vol. 38 Issue 2, at page 566 (see page 201 of *Puttaswamy I*)

Informational privacy & personal data

Informational privacy reflects (Puttaswamy I)

PII or personal data

"…an interest in preventing information about the self from being disseminated and controlling the extent of access to information."

Use & disclosure, processing

Informational privacy reflects (*Koops et.al, 2017 ([link]()))*

"…an interest in preventing information about one-self from being collected and in controlling information about one-self that others have legitimate access to."

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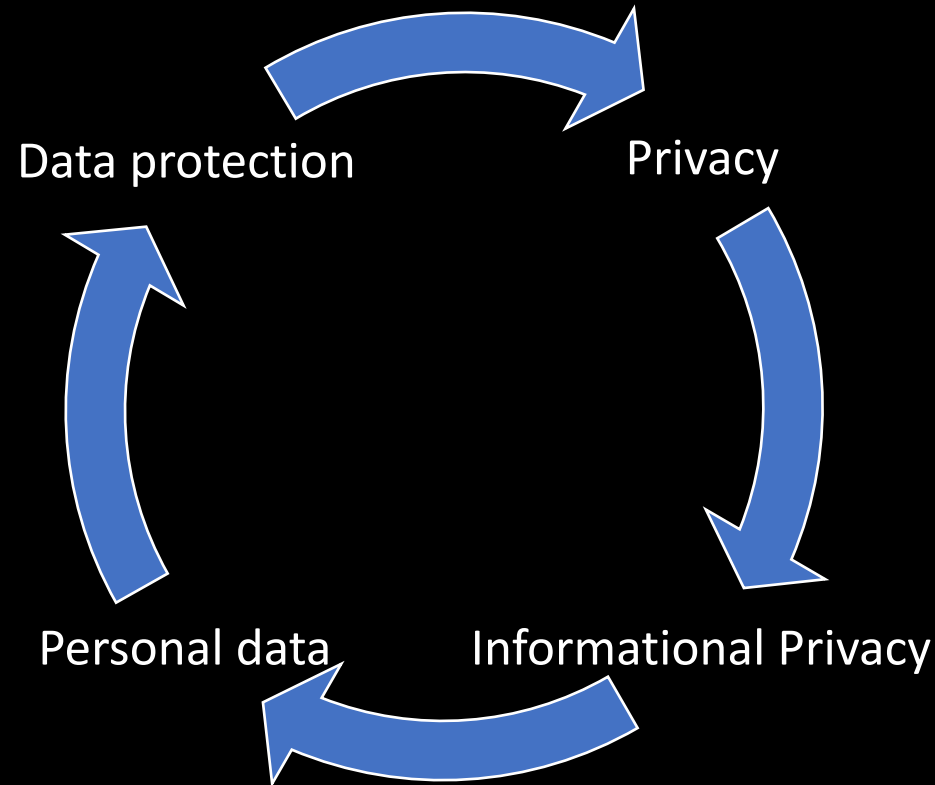
1. Objectives of Data Protection

2. What are the objectives driving laws on data protection?

- Protecting individuals' privacy and autonomy

- Enabling the free and fair flow of personal data to [facilitate trade, monitor economy, national security, XYZ]

1. Objectives of Data Protection

3. What do "data protection laws" look like?

Countries with new data privacy laws by decade
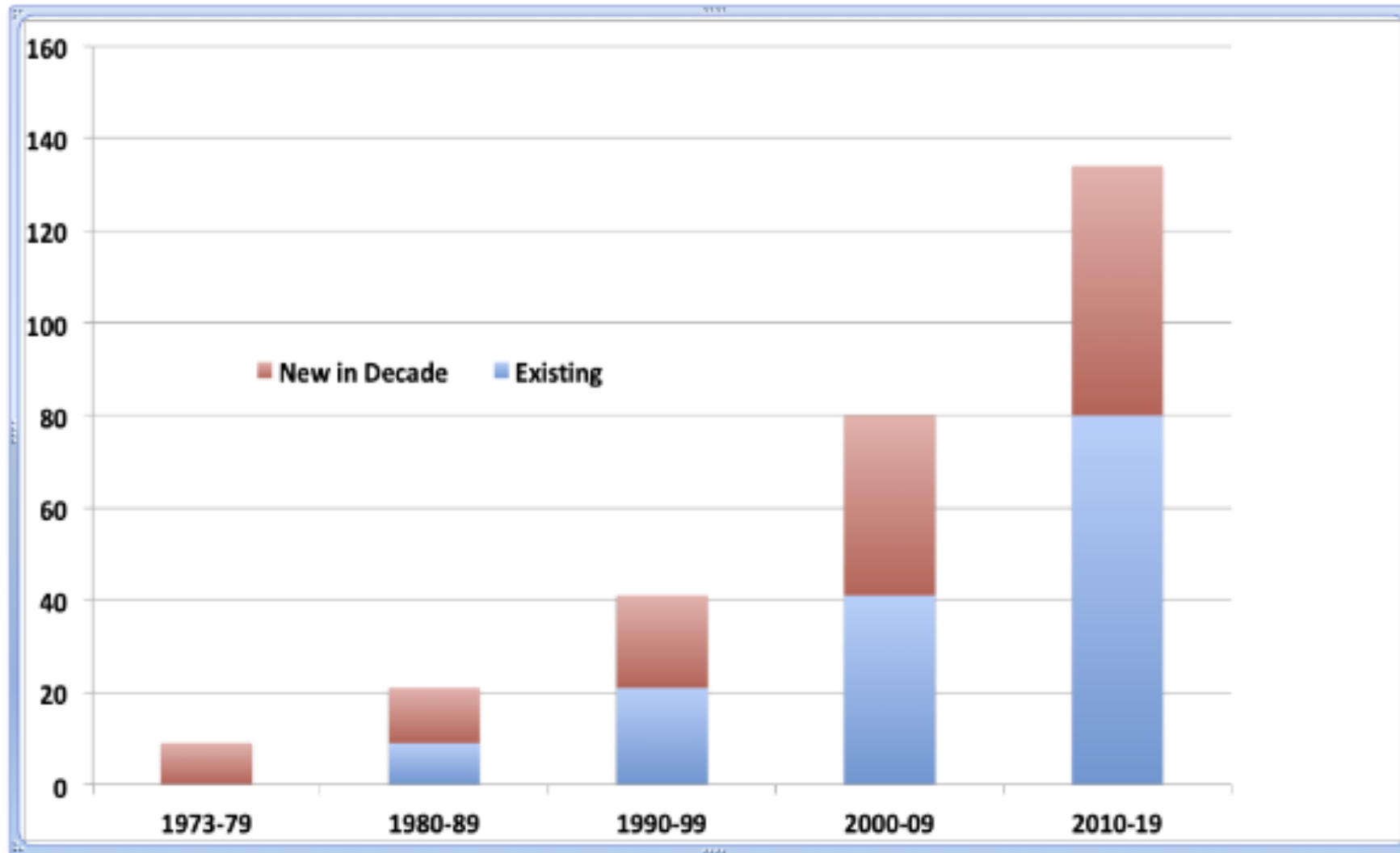
134 countries with data privacy laws by April 2019   *Source: Greenleaf, 2019 (link)*

A brief note on history

"First generation and second-generation principles"

- 1973 US Department of Health, Education & Welfare Report – Fair Information Practice Principles

- 1980 OECD Privacy Guidelines,

- the Council of Europe's Convention for the protection of individuals with regard to automatic processing of personal data, ETS No. 108 (CoE 108) and its Additional Protocol,

- 2004 Asia-Pacific Economic Cooperation (APEC) Privacy Framework

- Early 2000s in Asia: Taiwan, South Korea, Japan (By 2013, 14 of 26 Asian Countries had them)

- The General Data Protection Regulation 2016

See Greenleaf (2014), Chapter 1 (Link)

What do "data protection laws" look like?

Bygrave (2014) four distinguishing features of DP laws internationally:

1. the central rules of data privacy laws in **statute of legislation**

2. these statutes usually establish **special independent bodies** to oversee their implementation,

3. these statutes are often '**framework laws**' that are broadly drafted to enable the development of more detailed rules as the need arises, and

4. the specialist regulator (or DPAs) generally play a lead role in how data privacy law is understood and **applied** even where their views are only advisory.

What do "data protection laws" look like?

Greenleaf (2014):

- *"a country has a data privacy law if it has* legislation *of 'comprehensive' national scope, which provides a minimum set of data privacy principles to a standard at least approximating the minimum provided for by the international agreements of the early 1980s plus some methods of officially backed* enforcement.*"*

See Greenleaf, Graham. 2014. Asian Data Privacy Laws: Trade & Human Rights Perspectives. Oxford, New York: Oxford University Press. Pg. 52

Our Conversation - Today

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2. Key Concepts and Principles

1. General principles – fair & reasonable processing

2. Collection Principles

3. Use & Disclosure Principles

4. Security Principles

5. User Rights

6. Processing of Special Concern

1. General Principles

- **Fair and lawful processing**

- **Maintaining data quality**

2. Collection Principles

- Limiting data collection to specified purpose

- Means of collection to be lawful, fair and non-intrusive

- Notice on collection

- Collection only with consent

3. Use & Disclosure Principles

- Limiting use or disclosure for specified purpose

- Limiting use or disclosure for secondary or compatible use

- Processing data for new uses after notice

- Exceptions to limitations based on Notice or Consent

4. Security Principles

- **Requiring security safeguards**

- **Issuing breach notifications**

5. User Rights

- Right to access

- Right to correct

- Right to data portability

- Right to deletion or anonymization after use completed/ on request

- Right to withdraw consent or block use of data on request

6. Data & Processing of Special Concern

- Protections for 'sensitive' data

- Objections or disclosure of automated processing

- Direct marketing protections

Our Conversation - Friday

- Data Protection Law in India!

Thank you!

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