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The Concept of Privacy in the Context of Chinese Law and Culture

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One of the most challenging topics in any current discussion of privacy is how to define privacy. On the one hand, the failure to define privacy makes the conceptual basis of these laws unclear, which will inevitably lead to a situation in which privacy cannot be well protected and leads to dispute. On the other hand, the lack of a definition is not necessarily a weakness. It provides flexibility for implementing data privacy laws. It could enable such laws to address the widespread fear associated with increasingly intrusive data-processing practices. Currently, the right to privacy in the PRC is directly and indirectly protected by constitutional law, both private and public law as well as procedural law. Although the Chinese people, as well as the Chinese government's attitudes toward privacy, have shifted enormously in recent years, legislator apparently leaves more room for the development of new technologies which are nourished by data. One example is that the laws and regulations have defined neither privacy nor the right to privacy in the context of Chinese law. Defining a word is much more difficult than illustrating its use. To leave the regulatory margin open to subsequent changes and developments, the law can first define privacy, avoiding using an exhaustive definition and specifying the range of privacy, and then add the following aspects: In view of the various definitions of privacy published by different bodies and constant technical and scientific developments, the legislature shall adjust and adapt the definition of privacy to technical and scientific progress and to a definition subsequently agreed upon at the international level.

Keywords: privacy, Chinese culture, law, technical and scientific development

The Concept of Privacy in Chinese Culture

To the extent that a human being's need for privacy appears to be mostly rooted in social factors rather than in physiological or biological factors (Bygrave, 2004, p. 327), the need for privacy is essentially socially created (Moore, 1984, p. 12). As Barrington Moore says: "Without society there would be no need for privacy…Since societies differ, the desire or need for privacy will vary historically, from one society to another and among different groups in the same society" (Moore, 1984, p. 12).

He also believes that needs and opportunities for privacy are, in essence, determined by the character of a society's obligations which "derive from the nature of the social and physical environment, the state of technology, the division of labor, and system of authority" (Moore, 1984, p. 12). Barrington Moore's research

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specifies that an extensive, highly developed concern for privacy is only possible in a relatively complex society with a strongly felt distinction between private and public spheres of human behavior (Bygrave, 2004, p. 327; Moore, 1984, p. 54; Lunheim & Sindre, 1994, pp. 25, 28).

China's privacy customs are influenced by its cultural values (Tam, 2018; Anderton et al., n.d.). The awareness of privacy can be found in the Analects of Confucius (论语) back in the Warring States Period of China. As Confucius did say:

> do not watch if it disagrees with Li; do not listen if it disagrees with Li; do not speak if it disagrees with Li and do not act if it disagrees with Li (非礼勿视，非礼勿听，非礼勿言，非礼勿动). (Confucius, 2011, p. 60)

This doctrine protected individual's privacy right to a certain degree at that time by disallowing the invasion of other people's private life. In addition, Confucius distinguished family from outsiders, allowing a closer and more intimate family relationship, which greatly influenced the legislation in ancient China (Whitman, 1985, pp. 89, 92). For example, Criminal Law of the Min Dynasty (大明律) prohibited people from exposing and reporting offenses and crimes conducted by his/her parents or grandparents to the authorities because such behavior was considered as the impiety (不孝)—a major crime (Kim, 1981, p. 98). The purpose of such regulation was to consolidate social relationship rather than protect privacy (Wang, 2011, p. 36).

The Analects of Confucius (论语) and other Philosophy of Confucianism were aimed to obtain social harmony rather than protect individuals' rights (Chen, 2002, p. 8). Family relationships in China were summed up by Confucianism as the five cardinal relationships, namely

> emperor and the minister, father and son, husband and wife, elder brother and younger brother, friend and friend (君臣关系、父子关系、夫妇关系、兄弟（姐妹）关系、朋友关系). (Jing, 2008, pp. 51-52)

The father, husband, and elder brother are authoritative representatives of the family, and the son, wife, and younger brother undertake heavier obligations (Peng, 2003, p. 1039). "Since individuals are subsumed into these different relationships, there is no expectation of these members for their privacy rights within the household" (Peng, 2003, p. 1039). This view produced a lasting influence and continued down to the very present day, in the form of explicit parental authority—parents see their children's diary without permission and have the privilege to enter the room of their sons and daughters freely (Lv, 2005, p. 8).

The Binary Concept of Privacy

Privacy is traditionally observed in a binary way in European legal and philosophical traditions, dividing the existing world into two distinct areas: the public domain and the private domain (Solove, 2007, p. 163). In the case of The Bashful Lovers (Gill v. Hearst Publishing),[1] a husband and wife were engaged in a romantic embrace at a candy store at the Farmers' Market in Los Angeles. An employee of "Harper's Bazaar" magazine snapped a photograph which was published in the October 1947 issue of "Harper's Bazaar" magazine—in an article entitled "And So the World Goes Round" to celebrate the splendor of love. The married couples sued the publisher for invasion of privacy. The California Supreme Court noted that the photo merely permitted the members of the public to see the couple as they "had voluntarily exhibited themselves to public gaze in a pose

[1] Gill v. Hearst Publishing Co. [1953] 40 Cal. 2d 224, 253 P. 2D 441.

open to the view of any persons who might then be at or near their place of business".[2] According to the court, "there can be no privacy in that which is already public".[3] A person's picture might be a private fact but not when it is taken in a public or semi-public place. If a person is in a public or semi-public place, she/he cannot expect privacy. This case shows us that if someone's information is exposed to the public in any way, it cannot be construed as privacy (Solove, 2007, p. 163).

A similar case happened in the People's Republic of China (PRC) as well. In 2008, a young couple was kissing passionately for nearly three minutes in a subway station in Shanghai, and their kissing was recorded by the closed-circuit television of the subway station (McEntegart, 2008; Sina, 2008; BBC News, 2008). Then the video of the kissing was posted online at video sites including IQIYI.com and YouTube (McEntegart, 2008; Sina, 2008; BBC News, 2008). The young couple sued the subway station, claiming that their privacy rights had been violated (McEntegart, 2008; Sina, 2008; BBC News, 2008). Although the case was finally withdrawn, it raised the discussion of the right of privacy in public places in the PRC. In the PRC, there exist two distinct views on whether the photographer and the uploader have violated the privacy right of the young couple. One holds that the kissing behavior does not fall within the protection scope of legal privacy right of the PRC, for the reason that the privacy includes two elements: One is the private realm that has nothing to do with public affairs and the other refers to a state of the fact that is not known or not accessible (Ma, 2008, p. 132). For the couple kissing in public, there is no privacy involved. The other side believes that there exists privacy even in public places (Yang, 2008, p. 1), and the behavior of the photographer and the uploader is seriously infringing the privacy right of the young couple, for the reason that only a limited number of people can see them kissing in the subway station but the video posting on the Internet expands the "audience" of the kissing which is against the will of the couple (Yang, 2008, p. 1). It is reasonable to install cameras in public places for the protection of public interests. However, kissing in public does not violate the public interests. It is a controversial issue that whether some activities (such as daily activities and sexual affairs) should be monitored and publicized, because to do so would violate individual rights (Chinacourt, 2004; Beijing Review, 2004). "Chinese valuation of territorial privacy and its conceptualization of the public-private dialectic seems to be complex enough, to including some concepts of 'privacy in public'" (Farrall, 2008, p. 1015).

The use of surveillance cameras in public places arose wide concerns (Farrall, 2008, p. 1015). In 2006, Beijing promulgated the "Measures for the Administration of Public Security Image Information System in Beijing" (Chinese title: 北京市公共安全图像信息系统管理办法) (Beijing Municipal Public Security Bureau, 2006)[4] to monitor the use of cameras in public places. The measures require that the public security image information system shall not infringe upon the privacy of citizens.[5] The measures also require to keep the image information involving the privacy of citizens confidential.[6] A similar law was passed in the city of Chongqing (Chongqing Municipal Public Security Bureau, 2016; Farrall, 2008, p. 1015).

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[2] Gill v. Hearst Publishing Co. [1953] 40 Cal. 2d 224, 253.
[3] Ibid., 230.
[4] Measures for the Administration of Public Security Image Information System in Beijing (Chinese title: 北京市公共安全圖像信息系統管理辦法) was published by the government of Beijing on 4 December 2006 and entered into force on 1 April 2007.
[5] Measures for the Administration of Public Security Image Information System in Beijing, Art. 9.
[6] Ibid.

The Internet and new technology development have dramatically further changed the context in which privacy has been previously defined (Mendaros, 2011, p. 3), posing a severe challenge to the traditional binary understanding of privacy (Solove, 2007, p. 163). Nowadays, many places cannot be completely divided into purely private or purely public (Solove, 2007, p. 167). With the popularity of social media, individuals freely share large quantities of personal information they hold for the public to see, which blurs the line between private and public (Barnes, 2006; The China Post, 2013). This is an interesting question because now the Internet pervades everyone's privacy regardless of where you are and in which culture you live.

Privacy and Personal Data

The interactivity nature of the Internet leads to the generation of a vast array of personal data. Users' activities leave traces which are made consciously or unconsciously and captured by others (Poullet & Dinant, 2006, p. 62). Some of the richest emerging sources of personal data come from areas in which users have strong expectations of privacy, such as your network shopping preference, web surfing habit, even head and hand movements (Feltham, 2018). These data derive from device sensors—whether the microphone or camera on your phone, the fingerprint scanner on your laptop, the Internet Global Position System sensor on your car, to mention but a few (Hunt, 2018). There could be personal information on the Internet that individuals have neither included nor explicitly authorized to have placed on the Internet (Tavani, 2005, p. 41). Some people argue that information available on the Internet, including personal information, is essential public (Tavani, 2005, p. 41); if so, then it can be questioned whether individuals still be entitled to control their personal information on the Internet.

In March 2010, a Spanish named Costeja González brought a complaint before the country's Data Protection Agency against *La Vanguardia* newspaper, Google Spain, and Google Inc.[7] González requested the newspaper to remove or modify the record of his 1998 attachment and garnishment proceedings so that the information would no longer be available through the Internet search engines. He also wanted Google Inc. and its subsidiary, Google Spain, to delete or conceal that data. González argued that the proceedings had been fully resolved for several years and therefore they should no longer appear online (López-Tarruella, 2012). At the heart of this case, the issue that should individuals be entitled to control the dissemination of their personal data or should the claim that this information belongs in the public domain arises (Lynskey, 2015, p. 523). The Court held that individuals whose personal data are publicly available through Internet search engines may "request that the information in question no longer be made available to the general public on account of its inclusion in such a list of results",[8] as protection of personal data and their rights to privacy override "not only the economic interest of the operator of the search engine but also the interest of the general public in having access to that information upon a search relating to the data subject's name".[9] Following this case, the "right to be forgotten" was established as a legal precedent by the European Court of Justice (Kranenborg, 2015, p. 74).

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[7] Google Spain SL Google Inc. v. Agencia Española de Protección de Datos (AEPD) Mario Costeja González ECR Case [13 May 2014] C-131/12, 317.
[8] Google Spain SL Google Inc. v. Agencia Española de Protección de Datos (AEPD) Mario Costeja González ECR Case [13 May 2014] C-131/12, Para. 81.
[9] Ibid.

The "right to be forgotten" is not protected in the PRC as it is in Europe. In the first case of the "right to be forgotten" in the PRC—Ren Jiayu v. Beijing Baidu Netcom Science & Technology Co., Ltd. Case (Chinese title: 任甲玉与北京百度网讯科技有限公司名誉权、姓名权、一般人格权纠纷上诉案) (Pkulaw.cn, 2015), the right to be forgotten on the Internet was not recognized by the Beijing No. 1 Intermediate People's Court. In this case, the claimant—Ren Jiayu sued Chinese search engine Baidu after searching his name in February 2015 (Pkulaw.cn, 2015). He requested Baidu to remove autocomplete search results that associated him with his former employer—Wuxi Taoshi Biotechnology (Pkulaw.cn, 2015). Ren claimed that his former employer had a bad reputation and that the search results made it difficult for him to find a new job (Pkulaw.cn, 2015). He also claimed that by presenting the search results, Baidu infringed upon his "right of name" and "right of reputation" (Pkulaw.cn, 2015). Both rights are protected under Chinese law. Therefore, Ren asked for the information that associated him with his former employer "to be forgotten" or to have this information deleted from the Internet searches (Pkulaw.cn, 2015). The appellate court expressly acknowledged that:

> The concept of right to be forgotten was formally established by the European Court of Justice and that there had been discussion among the Chinese academics as to the importation of this right into the PRC. However, this right to be forgotten is not provided for or categorised under Chinese laws. As a general rule, if a person seeks protection of some kind of personal rights which are not explicitly provided for under Chinese laws, the person must be able to show that such personal rights are legitimate rights and are necessary for the law to protect. (Pkulaw.cn, 2015; Low, 2016)

The right to be forgotten is worth introducing into the legal system of privacy protection in the PRC because the right to be forgotten is an important right to protect the privacy right of citizens in the Internet age (Liu, 2022). In addition, the Chinese national condition should be taken into consideration in the process of localizing the right to be forgotten in the PRC (Liu, 2022). It shall promote the protection of citizens' personal information, without hindering the development of the Internet (Liu, 2022).

New Technologies and Privacy

New technologies increasingly invade the privacy persons enjoy not only in private but also in public places (Solove, 2007, p. 166). Surveillance cameras (vested with facial recognition) in public places link to websites for anyone to view (Solove, 2007, p. 163). Thanks to the scientific developments of so-called NBIC technologies—biotechnology, information technology, and nanotechnology (Roco & Bainbridge, 2002)—we as humans are physically or cognitively enhanced (Masci, 2016; Thomas, 2017; Roco & Bainbridge, 2002)[10] and watched (McNamee, 2022).

The nature of surveillance has changed. The spread and popularity of these technologies and services that reveal individuals' height, weight, sleep quality, health, fitness, medical conditions, and family medical histories in exchange for extensive monitoring and tracking paints a picture in which the human beings are voluntarily offering themselves up to increasingly invasive forms of surveillance (Draper, 2016, p. 233). Our data are being collected all the time. The power of decision that safeguards a person's information in social media and keeps it private is not only in one's own hands, but also depends on the choices of one's friends (Brookshire, 2017). Viktor Mayer-Schönberger and Kenneth Cukier (2013) in their book *Big Data: A Revolution That Will Transform*

[10] For example, CRISPR greatly improves scientists' ability to edit the human genome, in both embryos and adults.

How We Live, Work, and Think demonstrated that big data will be a source of new economic value and innovation in the future, and will transform the way everyone lives and interacts in the world. The new thinking in the big data era was put forward in their book as follows:

> In the spirit of Google or Facebook, the new thinking is that people are the sum of their social relationships, online interactions, and connections with content. In order to fully investigate an individual, analysts need to look at the widest possible penumbra of data that surrounds the person—not just whom they know, but whom those people know too, and so on. (Mayer-Schönberger & Cukier, 2013, p. 157)

Another problem of the binary concept of privacy lies in the fact that "it is an all-or-nothing proposition" (Solove, 2007, p. 184). Absolute secrecy is not what appears to be desirable in the present context. Instead, what people really want currently is to know and control the use and dissemination of their information (Solove, 2007, p. 184). They want to limit the flow of information, not to stop it entirely (Solove, 2007, p. 184). Activities of human-beings nowadays often take place in the twilight between public and private (Solove, 2007, p. 166). It is easy to simplify a complex phenomenon by dividing it into two meanwhile it leads to the dispute. This division hinders the enactment and implementation of laws because it leaves room for contesting interpretations (Neuwirth, 2018, p. 10).

Defining privacy is a prerequisite for the protection of privacy. Applying a binary logic, namely separating public and private to define privacy, is outdated. Merely through evaluating whether the information is exposed in public or not is no longer adequate to determine whether we should protect it as privacy or not (Solove, 2007, p. 166). "In general, the many problems raise the issue of the limitation of a dominantly dualistic concept of law based on binary logic" (Solove, 2007, p. 157). The virtue of a binary view of privacy is clarity, as well as an easy rule to apply (Solove, 2007, p. 169). However, the simplicity of this view is kind of outdated due to the new technology—so it is better to develop and protect a more nuanced concept of privacy, although it will be not easy (Solove, 2007, p. 169), because privacy is an essentially contested concept.

Privacy—An Essentially Contested Concept

We casually use numerous words in our daily life without thinking carefully about what we mean by them. It may not be important when the word is "cat". However, when we use abstract words that are full of contentiousness and controversy, such as "rights" and "democracy", all hope of a rational discussion disappears unless we achieve some degree of similarity between our understandings of these concepts (Clarke, 2016). It is difficult to achieve agreement among different people regarding the proper use of these terms or concepts. None of these concepts has a common usage that can be clearly defined as correct or standard (Gallie, 1955-1956, p. 167). Walter B. Gallie, a renowned philosophical scholar, described these problems by the notion of "the essentially contested concepts", pointing to "concepts the proper use of which inevitably involves endless disputes about their proper uses on the part of their users" (1955-1956, p. 169). These concepts relate to an all-encompassing problem, namely, the distinction between a word and its meaning, which was summarized by Rostam J. Neuwirth as follows:

> While two (or more) people may agree on the existence of a word its invocation does not necessarily (or possibly ever) create an identical association in the mind of another person. In addition, even if people agree on the meaning associated with a word, their ideas may change over time. (Neuwirth, 2018, p. 7)

Privacy consists of many related legal rights, rather than a single definition (Solove, 2008, pp. 78, 80; Gormley, 1992, p. 1339; Solove, 2002, p. 1088; Sharp, 2013). It includes the right to be left alone (Warren & Brandeis, 1890, pp. 193-195; Heins, 2010, p. 54), the intimacies of personal identity (Fried, 1970, p. 265; Rachels, 1975, p. 326; Fried, 1968, p. 482), restricted access (Gavison, 1980, p. 423; Moore, 2003, p. 216; Bok, 1983, pp. 10-11), autonomy (Henkin, 1974, p. 1411; Mokrosinska, 2018, pp. 117-118; Greene, 2014, p. 117), control over significant personal matters (Westin, 1967, p. 7; Parent, 1983, p. 270), freedom and privacy of correspondence, inviolability of the residence, protection from searches and interrogations, the right to dignity,[11] freedom of thought (Kolber, 2016, pp. 1385, 1391), and control over personal information (Westin, 1967, p. 7; Parent, 1983, p. 270), to list but a few (Greene, 2014, p. 117). Moreover, privacy is divided into physical privacy, mental privacy, decisional privacy, and informational privacy (Floridi, 2014, p. 102). Currently, the definition of informational privacy is further particularized and made concrete because informational privacy is particularly relevant to the discussion of the privacy risks posed by big data and modern massive data processing, in which the transmission, collection, and analysis of information are key (Taylor, Floridi, & Sloot, 2017, p. 50).

The concept of privacy seems to be in disarray, and no one can articulate precisely what it means (Solove, 2006, p. 477; 2008, p. 9). The reason is partly that the meaning of privacy across its wide-ranging historical periods—in response to wave after wave of new technological capabilities and social configurations—is in constant flux (Mulligan, Koopman, & Doty, 2016); partly that the meaning of privacy has been much disputed across different countries, values, and cultures (Bygrave, 2004, p. 327); and partly that privacy is an evolving concept.

Taking the evolution of the meaning of privacy in the Chinese context as an example, the word for privacy is “Yinsi” (阴私) in ancient Chinese literature, which is different from the western concept of privacy (Farrall, 2008, p. 993). “Yinsi” (阴私) contains two Chinese characters: “Yin” means “hidden” (隐藏), and “Si” means “personal and private” (私人的，不公开的). “Yinsi” (阴私) is usually considered a negative word (Cao, 2005, p. 646) and is often defined as “shameful secret”, as in “personal information people do not wish to tell others or disclose in public” (Cao, 2005, p. 646).

Compared with the prevailing tendency of “individualism” in English-speaking societies, China’s cultural orientation is often described as “collectivist” (J. J. Yang, H. J. Yang, & Ma, 2013, p. 2; Xu, 2011, pp. 44-45; Yang, 2015, pp. 49-50; Pugh, 2009, pp. 186, 418). In a collectivist culture, people are more concerned about other people’s lives since others’ experience could have direct or indirect consequences for them (Triandis, 1986, p. 231). For instance, in a collectivist culture, parents are involved in their children’s choices of school, friends, jobs, places to live, and even marriage. The right to privacy, which is a central theme in many individualist societies, does not have the same status in collectivist societies (such as ancient China) (G. Hofstede, G. J. Hofstede, & Minkov, 2010, p. 126). It is considered commonplace for a person to invade another’s private life at any time if they are in the same group. “Privacy” in Chinese implies the connotations of illegal secrecy and selfish, conspiratorial behavior (Economist, 2009). Chinese people often have this traditionally indifferent and sometimes even negative cultural perspective on privacy. The definition of privacy in the *Modern Chinese Dictionary* was

[11] Article 12 of the UDHR states: “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”.

changed to personal information that a person is reluctant or unwilling to disclose in public (不愿告人的或不愿公开的个人的事) (Institute of Linguistics, CASS, 1978, pp. 1363, 1368). With the advance of society, as well as the improvement of the level of education across the nation, Chinese people's attitude towards privacy has gradually changed from negative to neutral.

The definition and the extent of privacy show a discrepancy in context and environment as well as in cultural values (Altman, 1997, p. 66; Laufer & Wolfe, 1977, p. 22; Hofstede et al., 2010, p. 126).[12] Privacy means different things to people from different cultural backgrounds and has lost any precise legal connotation that it once had (McCarthy, 2000, p. 59; Solove, 2008, p. 479).

The quest for a remarkable core of privacy has ended in deadlock (Solove, 2008, preface). In fact, privacy standards vary from one place to another, from one culture to another, and from time to time (Nissenbaum, 2004, pp. 155-156). WTO members are allowed to restrict trade, even if such restriction circumvents their existing specific commitments when it is:

> necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to: … (ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;…[13]

However, it is hard to define privacy since:

> The value of privacy must be determined on the basis of its importance to society, not in terms of individual rights. Moreover, privacy does not have a universal value that is the same across all contexts. The value of privacy in a particular context depends upon the social importance of the activities that it facilitates. (Solove, 2008, p. 10)
>
> This theory of privacy might be the most conducive to a true comprehension of the term. It is sufficiently labile to address the new technologies and new lifestyles and the new privacy problems brought by them and to change the old privacy concerns. (Dawood, 2009, p. 820)

The meaning of privacy is controversial and difficult to harmonize (Post, 2001, p. 2087). Reaching a consensus on the definition of privacy might be impossible. The possible reasons are as follows: First, privacy is "exasperatingly vague and evanescent" (Miller, 1971, p. 25). We can be easily aware of the threat to privacy "yet stumble when trying to make clear what privacy is" (Gross, 1967, p. 35). Second, privacy covers too many things that are quite different from each other and thus may not be capable of a single definition (Gormley, 1992, p. 1339; Solove, 2002, p. 1339).

Based on the above statement, it is clear that privacy, the meaning of which is abstract, contentious, and changing over time, is an essentially contested concept (Mulligan et al., 2016). The meaning of privacy is constantly evolving according to ever-changing technological and social conditions. It is an important concept that has received much attention, yet reaching a consensus on its definition of privacy is impossible. Privacy is never directly defined in laws that explicitly refer to it.

Leaving aside the problem of defining privacy, which may differ in different times and cultures, it is important to see how law can deal with those concepts like AI, Big (raw) data, synthetic biology. Those concepts are often described as oxymora (Neuwirth, 2018, p. 209). Oxymora represents a tool to express the serious

[12] The right to privacy is a central theme in many individualist societies that does not find the same sympathy in collectivist societies, where it is seen as normal and right that one's in-group can at any time invade one's private life.

[13] GATS, Art. XIV. 15 April 1994, Marrakesh Agreement Establishing the WTO, Annex 1B, 1869 U.N.T.S. 183.

challenges of "change" and to "shift the descriptive accuracy from a static to a more dynamic view" (Neuwirth, 2018, p. 216). Current conceptions of law are basically dualistic and relying on classical logic (Neuwirth, 2018, p. 206). It is argued that such a conception "would render dialethism or fuzzy thinking in law rather useless" (Neuwirth, 2018, p. 206). The creation of a common language based on oxymoronic concepts can help pave the way for the development of new and more coherent cognitive modes of perception and reasoning, as accepting differences and most of all contradictions, as in dialetheism, maybe the first step on mind change (Neuwirth, 2018, p. 206).

Conclusion

One of the most challenging topics in any current discussion of privacy is how to define privacy. On the one hand, the failure to define privacy makes the conceptual basis of these laws unclear, which will inevitably lead to a situation in which privacy cannot be well protected and leads to dispute. On the other hand, the lack of a definition is not necessarily a weakness. It provides flexibility for implementing data privacy laws. It could enable such laws to address the widespread fear associated with increasingly intrusive data-processing practices (Neuwirth, 2018, p. 206).

The PRC has adopted many laws and regulations concerning privacy protection. The right to privacy is directly and indirectly protected by constitutional law, private law, and public law. However, the laws and regulations mentioned above have defined neither privacy nor the right to privacy. Defining a word is much more difficult than illustrating its use. To leave the regulatory margin open to subsequent changes and developments, the law can first define privacy, avoiding using an exhaustive definition and specifying the range of privacy, and then add the following aspects: In view of the various definitions of privacy published by different bodies and constant technical and scientific developments, the legislature shall adjust and adapt the definition of privacy to technical and scientific progress and to a definition subsequently agreed upon at the international level.

Bad laws that led to contradictions should be quickly repealed and replaced by no laws or at least better ones, in case that the emergence of new facts, presented by way of neologism in the disguise of oxymora or paradox, renders the laws in force obsolete (Neuwirth, 2018, p. 206).

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