

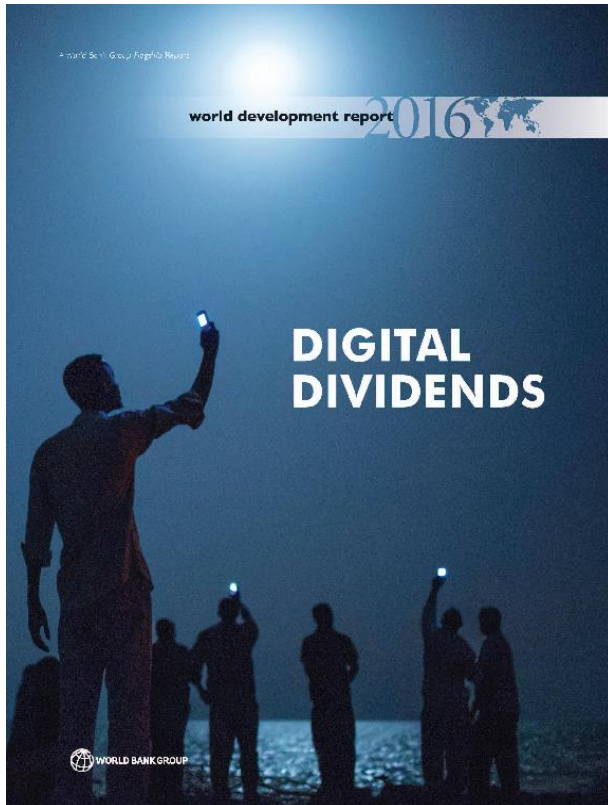
Protecting Human Rights

African Cybercrime Forum

Keong Min Yoon
October 18th, 2018



Trust Environment as Engine of Economic Growth & Development



- Data as driver
- Big Data
- “Trust”

Security vs Privacy: A False Trade-off?

Security

A set of technological measures that mediate access to personal data stored or transmitted via ICT systems or networks

Privacy

A normative framework for allocating who has access to that data, including the right to alter any of it.

Bambauer, "Privacy vs Security" (2013)

Overcome misconceptions

"If you've got nothing to hide, you've got nothing to worry about"

Marlinspike, "Why 'I Have Nothing to Hide' Is Wrong" Wired (2013)

"Good data protection subverts security"

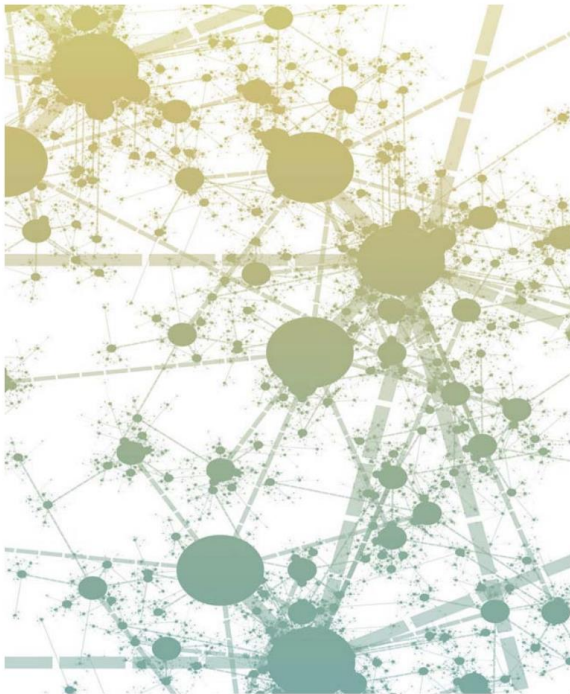
Solove, "Nothing to Hide" (2011)

"Privacy vs security is a zero-sum game"

Porcedda, "Data Protection and Prevention of cybercrime" EUI (2012)

Robust Principles

THE OECD PRIVACY FRAMEWORK



2013



Collection
Limitation



Data Quality



Purpose
Specification



Use Limitation



Security
Safeguards



Openness



Individual
Participation



Accountability



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GDPR



1

Rights of Data Subject

2

Data Protection by Design and
by Default

3

Obligations of Data Processors
and Data Controllers

Security & Privacy

Article 15 of the Budapest Convention:

1 Each Party shall ensure that the establishment, implementation and application of the powers and procedures provided for in this Section are subject to conditions and safeguards provided for under its domestic law, ***which shall provide for the adequate protection of human rights and liberties***, including rights arising pursuant to obligations it has undertaken under the 1950 Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, the 1966 United Nations International Covenant on Civil and Political Rights, and other applicable international human rights instruments, and which shall incorporate the principle of proportionality.

2 Such conditions and safeguards shall, as appropriate in view of the nature of the procedure or power concerned, *inter alia*, include judicial or other independent supervision, grounds justifying application, and limitation of the scope and the duration of such power or procedure.

“Privacy” in Int’l Law

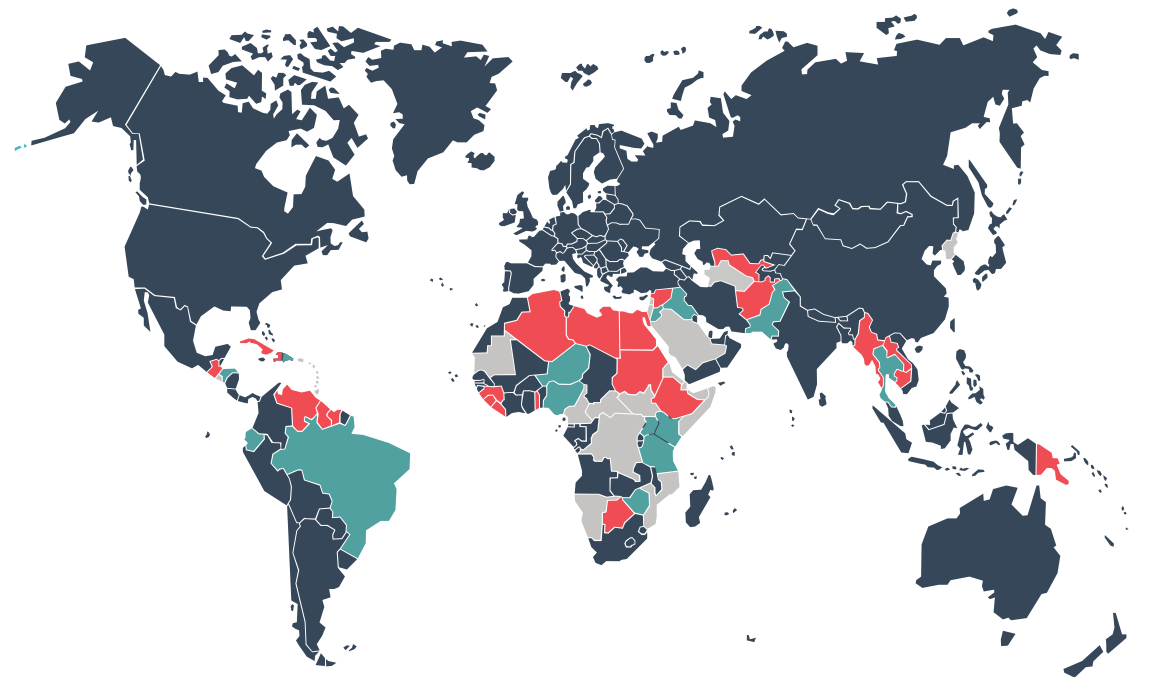
Article 12 Universal Declaration of Human Rights (UDHR)

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.

Article 17 International Covenant on Civil and Political Rights (ICCPR).

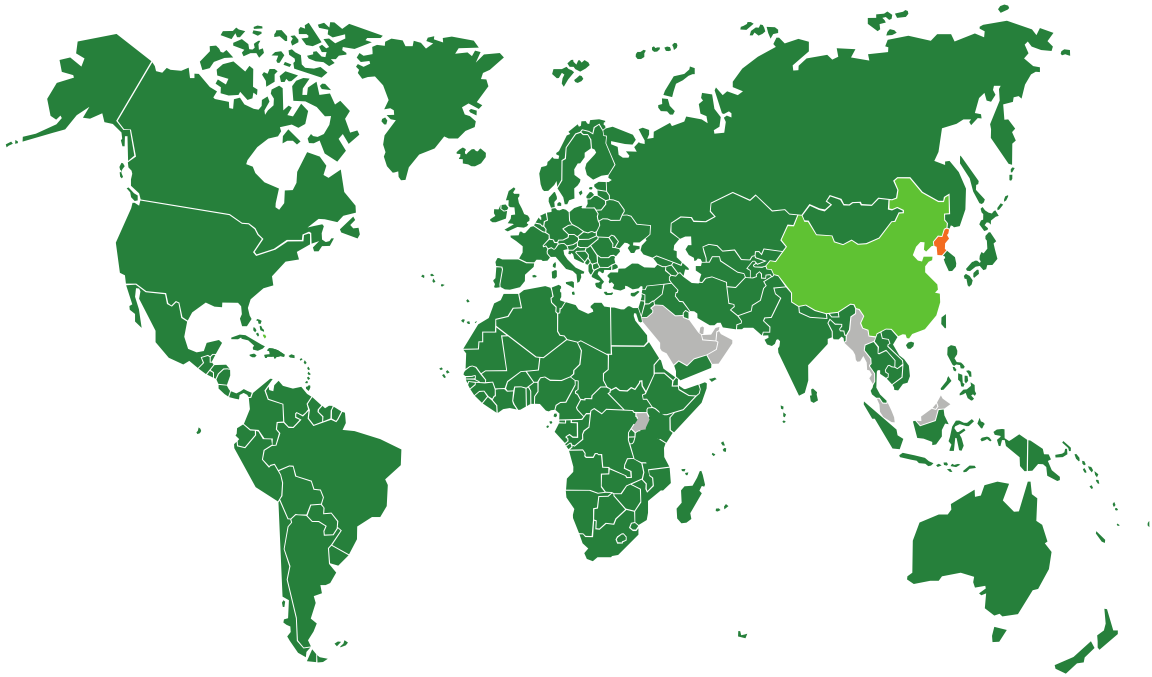
1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

Countries with Privacy/ Data Protection Laws



- Legislation
- Draft Legislation
- No Legislation
- No Data

ICCPR Members



Adapting Data Protection Regimes to Modern times

- UN Human Rights Council (2016)
 - “8. Calls upon all States to address security concerns on the Internet in accordance with their international human rights obligations ***to ensure protection of freedom of expression, freedom of association, privacy and other human rights online***, including through national democratic, transparent institutions, based on the rule of law, in a way that ensures freedom and security on the Internet so that it can continue to be a vibrant force that generates economic, social and cultural development;”
- UN General Assembly Resolution (2013) - Right to Privacy in the Digital Age.

Legal Instruments Guaranteeing Data Protection & Privacy

UDHR Article 12

ICCPR Article 17

European Convention
on Human Rights

Convention for
Protection of Individuals
with Regards to
Automatic Processing of
Personal Data

Additional Protocol to
Convention 108

Recommendation R(87)
15 on Data Protection in
the Police Sector

The Special Place for Anonymity

Essential Component for:

- Privacy
- Public safety

| The Right to Communicate

- Includes freedom of expression and access to information
- UDHR Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”



Why establish a Trust Framework?

Significant Risks of Low Trust Systems

- If individuals feel that privacy is not safeguarded, they may **withhold information**, supply **inaccurate information** or simply **avoid participating**
- Inclusion, privacy and data protection are therefore key to public trust and successful deployment of, internet participation

Safeguards

While issues of procedural due process, protection of data and privacy and freedom of expression could be included in a discussion of national legal frameworks, they are treated separately in this chapter because of the importance of such legal “safeguards”. This chapter examines procedural due process, data protection/privacy and freedom of expression as they relate to cybercrime.

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A. Due Process

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Introduction

As stated in the WDR,¹ for an ICT ecosystem to be vibrant and to contribute to

B. Data Protection & the Right to Communicate

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Introduction

Up to this point, the Toolkit has focused on ways to effectively combat cybercrime, with

Combating Cybercrime

Overview | Toolkit | Assessment Tool | Virtual Library | Partners | Download Toolkit

OVERVIEW

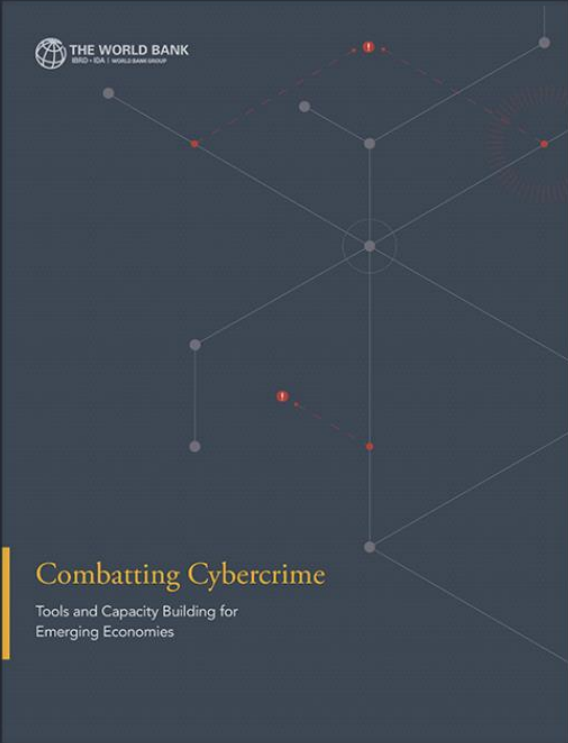
Combating Cybercrime: Tools and Capacity Building for Emerging Economies.

The resources available here are aimed at building capacity among policy-makers, legislators, public prosecutors & investigators, and civil society in developing countries in the policy, legal and criminal justice aspects of the enabling environment to combat cybercrime. These resources include:

- A Toolkit that synthesizes good international practice in combatting cybercrime
- An Assessment Tool that enables countries to assess their current capacity to combat cybercrime and identify capacity-building priorities
- A Virtual Library with materials provided by Project participating organizations and others

Download

Using the Toolkit



Combating Cybercrime
Tools and Capacity Building for Emerging Economies



THE WORLD BANK GROUP GOALS

**END EXTREME POVERTY AND
PROMOTE SHARED PROSPERITY**

www.combatingcybercrime.org

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