GENEVA INTERNET LAW RESEARCH COLLOQUIUM
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Saving Face: The Screen of Chinese Privacy Law Unfolds
Why Should We Research Chinese Privacy Law?

◆ China is an emerging economic power
◆ EU and US businesses want to do business in China
◆ China’s laws and regulations will influence the future of Internet development and international online laws
◆ The Silk Road: Inbound law from EU/US vs. Outbound law affecting EU/US
What Are the Cultural Foundations for Privacy Protection?

- Laws are not created in a vacuum
- Laws arise based on history, culture, and societal needs
- Western culture values individual identity and rights
- Eastern/Chinese cultures value creating a respected persona within the context of the community
A Central Question

What is the individual’s role in the community?
A Simplified Comparison, Part 1

Privacy - East
Privacy law and regulation in Chinese culture serve to sustain the individual’s role/face in the community

Privacy - West
Privacy law and regulation in Western culture support individual privacy rights against the community, corporation, or government
A Simplified Comparison, Part 2

The East
• Shame-based, external restrictions on behavior

The West
• Guilt-based, internal restrictions on behavior
Does Confucianism Still Affect 21st Century Chinese Law?

- Historical significance of Confucianism arising in an era of war and discord: “Unification Mindset” persists
- Priority is placed on ensuring order and good governance
- Rights of the individual are subordinate to the rights of the family unit, the community, and the country
  - Such ideas have been reinforced or reintroduced in many ways under Communist rule: ex/ communes
  - Privacy Law and applications are based on hiding facts that would be shameful for an individual or family/community
  - New: “Real name” laws establish & correct relationships
If There’s No “Privacy Law” in China, What Protects Privacy?

Sectorial Privacy Law Developments in China

Examples, to begin:

A. Telecommunications-based privacy protections
B. Consumer Protection - explicitly stating the purposes, means and scope for collecting or using information, and obtaining the consumers' consent
C. Tort Law – similar to the right to privacy torts in U.S. law
Are There Different Calculations for Privacy in Asia, the E.U., and the U.S.? Business Applications

- Tradeoff of private information for services in China (community-based)
- Tradeoff of private information for services in the U.S. (individual-based)
- Tradeoff of private information for services in the E.U. (rights-based)
Is Privacy in China a virtual PRIVACY SCREEN protecting the individual’s place and dignity in the community?

Or does the law protect the community rather than the individual?
Thanks!

Where Do We Go Next?
Credits

Co-Authors: Tiffany Li and Zhou Zhou
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IP Scholars Asia 2016 at Singapore Management University
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