

LL4433V / LL5433V / LL6433V Global Data Privacy Law

Course Description

This course will explore the main themes and approaches in global data privacy law in light of various international frameworks (OECD, APEC, ASEAN) and a cross-section of national laws from North America, Europe and Asia. Many countries have enacted new data privacy laws or amended existing laws in recent years. Where there are many similarities in the substantive requirements and intended policy outcomes of such laws, there are also differences in how such laws are applied in the context of different legal and socio-economic systems and there is no widely-accepted international framework for cross-border data transfers. This environment presents challenges to organisations which operate across different jurisdictions or which are seeking to enter new markets. This area of law also continues to face new challenges as developments in business and technology present new risks to the protection of individuals' personal data and privacy. This course will also consider the role of data privacy laws in regulating social media and the Internet, AI and machine learning and cybersecurity.

Learning outcomes

Students are expected to acquire:

- A critical understanding of the main themes underlying data privacy laws around the world.
- Familiarity with international data privacy frameworks and the main elements of laws in major jurisdictions.
- Deeper understanding of laws in at least two jurisdictions through independent legal research.
- A capacity for critical reflection on the ambit of government regulation of data privacy in light of developments in laws, technology and society.
- A capacity to evaluate the development of laws and public policy in an international context.

Syllabus

1. **Introduction:** A brief history of data privacy law from 1948 to the present, a survey of laws and frameworks around the world and an introduction to the main themes of data privacy.
2. **Harmonisation of Data Privacy Principles and Laws:** Comparing the approaches and main principles of the treaties of the Council of Europe and African Union and frameworks of the OECD, APEC, the Commonwealth and ASEAN.
3. **Protection of Fundamental Rights and Liberties:** Key principles of the EU's General Data Protection Regulation.
4. **Accountability and the Protection of Privacy:** Key principles of Canada's Personal Information Protection and Electronic Documents Act and provincial laws in British Columbia and Alberta. Accountability and privacy by design.
5. **Protecting Consumer Privacy and the Reasonable Expectation of Privacy:** Key principles of US common law, selected federal laws and the California Consumer Privacy Act.
6. **Law in Action (1) – Social Media and the Internet:** Application of data privacy laws and principles to social media and the Internet. Freedom of speech, ownership of personal data and data portability.
7. **Balancing Consumer Rights and Economic Rights:** Comparing the approaches under Singapore's Personal Data Protection Act and Hong Kong's Personal Data (Privacy) Ordinance. Data privacy and the promotion of cross-border trade. Data privacy and competition law.

8. Data Privacy and Security: The (so-called) “Third Way” in China and “Fourth Way” in India – new and upcoming laws in China and India. Data localisation and information security.

9. Data Privacy in ASEAN: Comparing the laws of the Philippines, Thailand, Malaysia, Indonesia and Vietnam. Challenges of regional harmonisation. ASEAN’s Framework on Digital Data Governance.

10. Law in Action (2) - Data Privacy and Data Ethics: The role of data privacy in regulating research, data analytics, AI and machine learning.

11. Data Privacy and Cybersecurity: Comparing the regulation of data privacy and the regulation of cybersecurity, particularly in relation to the main themes, approaches and principles. Impact of data breaches and the role of data privacy in promoting information security.

12. The Future of Data Privacy: Revisiting the main themes of data privacy and prospects for regional or global harmonisation.