Elements of convergence in the historical origins and ideological foundations of the US and European privacy law: the nexus between the “right to be let alone” and continental jurisdictions

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Abstract

In comparative privacy law studies, the interaction between the birth of US privacy law doctrine and the early development of European data protection legal scholarship has long been at the center of scholarly attention and debate. Although much of this theoretical debate has revolved around the question of which of these distinct privacy legal traditions takes historical precedence over the other, there is generally no argument against their striking resemblances at their stage de *naissance* and even more so in the early era of data protection lawmaking in Europe and the US.This similar point of departure stands in stark contrast to the subsequent evolution of the privacy protective landscape across the two sides of the Atlantic, since, due to variant domestic political reasons and grievous experiences of the past involving flagrant human rights’ violations, the second half of the last century has brought to the surface two very divergent, oft-reported as clashing, “information cultures” which have induced discrepancies and structural inequalities in the corresponding regulatory regimes. Without wishing to downplay those systematic and cultural divergences or advance any oversimplified and therefore false generalizations, the aim of this article is to focus on and illustrate the nexus between the underlying ideological substratum of the “right-to-be-let-alone” privacy conceptualization and the one underpinning two of the most representative continental visualizations of privacy, namely the German and the French one.