

《Summary》

The Collision of Privacy Between the U.S. and Europe (1)

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This article examines the “digital tsunami” waved in the Atlantic Ocean due to the difference concerning the right to privacy between the U.S. and Europe.

The U.S. exported the right to privacy in the world, and its significance is globally recognized. Yet, the recent counter-terrorism policies of the U.S. revealed less protective of privacy such as SWIFT cases, passenger name record data by air carriers, and e-Discovery. European countries maintain that privacy is a fundamental right and should be an adequate level of protection thorough the EU Directive. The safe-habor agreement in 2,000 seems to have been recognized as a political compromise, far from a mutual understanding of the universal character of the right to privacy between the U.S. and Europe.

The article surveys the two Western cultures of privacy in terms of liberty versus dignity. When we look at the European achievement of the right to privacy, their traces are along with the human dignity and honor in a reaction of historical status privileges and Nazism and fascism. In addition, the right to privacy entails the affirmative obligation of the government to respect human dignity and honor.

In the U.S., however, state action requirement functioned as a shield

of protecting private sphere so that the right to privacy traditionally recognized as the retreat of the government. Furthermore, the exceptional culture of free speech has diminished the reach of the right to privacy in the U.S. Lastly, compared with an English culture of privacy, which highlights the relationship with others, the U.S. constitutional culture has rarely embraces the intimate life or private life. Individual liberty has been cherished rather than human dignity and honor in the U.S.

Any comparative legal study has only a relative measure, thereby the article recognizes the similarities of the right to privacy in both the U.S. and Europe (for instance in *Lawrence v. Texas*). Yet, the article points out more differences of privacy between the U.S. and Europe in the context of a constitutional culture.