

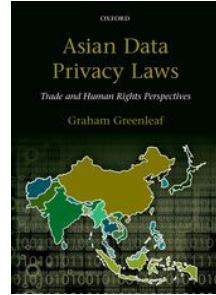
## Book Review

**Title** : Asian Data Privacy Laws  
Trade and Human Rights Perspectives

**Author** : Graham Greenleaf

**Publisher** : Oxford University Press,  
United Kingdom, 2014

**Book Reviewer** : Sinta Dewi Rosadi\*



This book is written by Professor Graham Greenleaf, an expert in the field of privacy law from Faculty of Law, University of New South Wales, Sydney, Australia. This book compiles his research and advocacy in Asia's privacy development since 1970, as well as his writings on Asian Privacy Development in *Privacy Laws & Business International Report*. This book is the result of his long collaboration with many privacy law experts from many States in Asia and has been published in numerous books and journals. The book is written because the author believes that privacy in its many forms is worth protecting as one of the rights protected under human rights laws. The author also believes that personal data has a high economic value, which leads to the book also examining the business aspects of the data privacy laws and the extent to which corporations take part in data privacy protection.

This book comprehensively illustrates the historical development of data privacy protection in Asia and the length of influence that international law instrument has on Asian countries in the matters of privacy protection and regulation. The author then describes how privacy is put in a regulatory framework in 26 Asian countries and compares how those laws are applied in those countries. In the Global context, the data privacy laws has expand significantly and with around 101 countries implementing data privacy laws. Furthermore, since 2013 there are 12 jurisdictions in Asia that have regulated data privacy law. The exposure in this book is different from other books on similar topics because it attempts to explain privacy from two different aspects, which are business and human rights aspects.

This book consists of three parts and twenty chapters: Part one: Asia and International Data Privacy Standards; Part two: National Data Privacy Laws in Asia; and Part Three: Regional Comparisons, Standards, and Future Developments.

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[PADJADJARAN Jurnal Ilmu Hukum Volume 2 Nomor 1 Tahun 2015 \[ISSN 2460-1543\] \[e-ISSN 2442-9325\]](#)

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In the first part, the author provides an overview of the condition that makes privacy protection important in Asian countries. For several cases, it is due to the government's practice in developing comprehensive information systems concerning their citizen; local business in knowing their customer in direct marketing practices; and international businesses in running search engines that gather the most basic knowledge important for readers who are unfamiliar with privacy law. For instance, the definition of data privacy law is a disputed concept both in law and philosophy. Thus, in order to avoid misinterpretation, the author uses the term 'data privacy', which has been understood as a set of data protection principles. Meanwhile, 'data privacy law' is defined as a set of enforceable data privacy principles on how personal data is collected, used, and distributed.

The author's point of view is strongly influenced by European Union perspective which believes that data privacy laws should come in form of comprehensive laws or general e-commerce and consumer transaction laws. The author also supports that laws are not the only means of regulating behavior, citing also other factors such as markets, morality, and infrastructure. The first part ends with the History of data privacy laws in Asia which is strongly influenced by OECD's Privacy Guideline 1980 just like Japan and South Korea, although Hong Kong is actually the first country to enact comprehensive data privacy law.

In the second part, the book aims to both describe and assess critically the data protection laws in 26 countries in Asia. The exposure presented in this chapter is very comprehensive, detailed, and helpful for those without an understanding on how data privacy is regulated in those countries. The discussion is not only on the legislative, but also social and political context as well. The discussion of data privacy laws is not always the same depending on the conditions of each country. In general, however, this book describes: (1) historical; (2) constitutional and general law protections of data privacy; (3) data privacy legislation and enforcement authorities; (4) data privacy principles; (5) enforcement and remedies including any systemic enforcement measures; and (6) the role of the market to take part in regulating data privacy with co-regulation and self-regulation mechanism. This part is depicted in very comprehensive and detailed way for readers to learn the data privacy starting from the country's history, regulation scope of application, data privacy principles, and data transfer abroad, including the application of any sanctions imposed.

The final part consists of four chapters titled "Regional Comparisons, Standards, and Future Developments". In this part, the author discusses and analyzes the comparative study and also reviews the international development and its impact on the future prospect of Asia data privacy. The first chapter compares the sources of privacy protection, the scope of data privacy laws, and data privacy principles.

The author also assesses the liabilities of controllers, processors, and others. Furthermore, the book also compares the international dimensions of data privacy laws and finally the book reviews the strength and consistency of data privacy principles across the laws in Asian countries. From the comparison, the author attempts to conclude an 'Asian standard' for principles in data privacy law to be considered as a legal guideline for other Asian countries currently without data privacy laws or companies that intend to implement data privacy standards. In obtaining a full picture of data privacy laws, the author finds the resources from: (1) constitutional protections; (2) rights arising from treaties; (3) rights of civil actions; (4) criminal law actions; (5) right to information law; (6) human rights commissions; (7) international memberships; and (8) the surveillance context.

The author also compares the scope of data privacy laws, which is very important from the author perspective in analyzing and identifying which one has the the strong law by implementing the strategic exemptions and subsequently reviewing the countries that are implementing exceptions. The next part is comparing data privacy principles such as: (1) fair and lawful processing; (2) data quality; (3) collection principles and notice; (4) purpose of collection and notice required; (5) consent to collection and definitions of consent; (6) lawful, fair and non-intrusive collection; and (7) visual surveillance. Those principles originate from several international organization principles such as OECD Guidelines and Council of European Union Convention, EU Directive, and Apec Privacy Principles. In assessing data privacy enforcement, the author also uses several criteria such as: (1) choice of privacy enforcement agency; (2) reactive enforcement; (3) systemic methods of enforcement; (4) transparency in the evidence of enforcement; and (5) privatized enforcement.

In the next chapter, the book assesses data privacy enforcement in Asia, and due to the diverse range of enforcement mechanism, the book divides the enforcement mechanism in several categories: (1) responsive regulation according to European Criteria; (2) reactive and systemic enforcement measures. The enforcement mechanism also discusses the choice of privacy enforcement agency used in Asian region, which are Data Protection Authority and Ministry-based enforcement.

The last chapter in the book discusses the international development, both on regional and global level that may affect Asian countries in the future; especially the Snowden revelation which has raised concern about the growing surveillance both in global and domestic level where the technology is used as a media of global surveillance has undermined privacy rights. Another effect of Snowden revelation is the cloud computing industries where some countries are legislating to require servers containing the personal data of their citizens to be based in their country.

The book concludes that the developments of data privacy's regulation in 26 Asia countries has demonstrated significant developments at many level. In half on the countries there are comprehensive laws covering the private and public sector, while the remaining countries develop the enactment of broader data privacy laws. This book is the first one to discuss and analyze data privacy laws across Asia, which it does remarkably by providing extensive studies with very detailed and useful information on the national data privacy laws in Asian countries and how those laws are implemented. The book also analyzes the regional trends, international development, and the future prospects of Asian data privacy laws. This book will be a very useful reference for regulators, lawyers, and academics within and outside of the Asian region.