

**Review of *Protectors of Privacy: Regulating Personal Data in the Global Economy* by
Abraham Newman**

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Technological advances such as splitting the atom or sequencing the human genome often move more quickly than the development of an ethics of how these technologies should be used. The same holds true for the information revolution: the speed with which it has created new possibilities for transmitting data has exceeded that of societies' ability to reach consensus on how much data should be generally available. This gap is troubling for advocates of individual privacy.

In the wake of 9/11, the tug of war in the United States has been between individual privacy and national security, with the federal government attaining broad powers to mine personal data to identify potential terror suspects. In this important new book, Abraham Newman of Georgetown University explores the murkier question of commercial use of private information, in which individual privacy is pitted against the desire of both governments and businesses for access to data for their own purposes.

Newman's focus is on the adoption of a comprehensive regime safeguarding individual privacy in the European Union (EU) and its diffusion to countries with more limited protections, including the United States. This development is puzzling: not only did this EU regime emerge in the face of opposition from powerful European firms and governments, but did so in the presence of strong commercial and security rationales for eliding privacy concerns. Newman explains this outcome primarily as a result of the early development of strong regulatory capacity among national-level regulators and experts in Europe. These policy entrepreneurs acquired the expertise and authority necessary to define and implement privacy rules prior to the EU's landmark 1995 privacy directive, allowing them to exert decisive influence on the directive's subsequent design and diffusion.

Newman divides his analysis into three parts, addressing the national, EU, and international phases of policy development in Europe and beyond. Doing so allows him—requires him, really—to address several distinct literatures.

The first phase coincides with the advance of digitization and mainframe computers in the 1970s, in which governments adopted rules of varying strength to regulate the spread of personal data. Newman examines the distinct political arenas in the United States, France, and Germany to show how countries with a larger number of veto points tended to give actors opposed to comprehensive rules (primarily businesses) greater opportunity to block them. He suggests that other explanations for cross-national variation in such rules—different functional responses to distinct regulatory problems or different national legacies of authoritarianism—fail to account for these differences.

The second phase culminated in the adoption of the EU privacy directive in 1995. Newman rejects standard intergovernmentalist and neofunctionalist accounts of EU

policy integration, pointing out that the directive was not supported, at least initially, by powerful member-states such as Germany or the UK, by key businesses, or by the usual suspects of supranationalism (the Commission and ECJ). Rather, it was the agency of the emerging network of national regulators, motivated both by a belief in individual privacy and by a desire to protect their regulatory turf, that ultimately promoted and shaped this directive.

The third phase is one of international policy diffusion, with EU regulators promoting or imposing their preferred privacy regulations on often-resistant policymakers in other countries (including the United States). Contrary to the work of Daniel Drezner and others who focus on actors' market power—of which the EU has plenty, but not much more than the United States—Newman points to EU regulators capacity to leverage control over EU market access, the EU enlargement process, and the increase in EU competence in international negotiations to pressure other states to adopt the EU model.

The book's primary contribution is to the literature on transnational government networks, most commonly associated with Anne-Marie Slaughter. Like Slaughter and Steven Vogel, among others, Newman shows that authoritative regulation is not locked in a death struggle with globalization; rather, technological change and economic integration transform the political arena within which rules are designed. The book also enriches our understanding of the EU as an international actor, identifying its primary role as a regulatory superpower—one that does not raise the usual *sui generis* objection about lessons from EU-centered analyses.

Newman's analysis does raise a few questions, some of which are addressed more fully than others. One involves generalizability: does his argument about regulatory capacity travel beyond the privacy case? Newman anticipates this question, devoting two chapters to how regulatory capacity relates to data regulation in the post-9/11 security context. He finds that EU regulators enjoy lower capacity with respect to security issues, leading to more limited internal privacy protections and external influence on international privacy-versus-security debates (especially vis-à-vis the United States).

However, one might ask whether the distribution of regulatory power in the world is as clearly bipolar—with the EU and United States as superpowers—as he suggests. The rise of China begs the question of the limits of intentional policy diffusion: while the EU recently gave Google a seat on a advisory council on data protection, China continues to dictate to Google on how information can be disseminated. This example reminds us that EU or US capacity to project a particular policy model is not independent of the inclination of powerful, sovereignty-vigilant countries like China or India to resist it.

At the micro level, Newman relies on the assumption that regulators are motivated in part by a normative commitment to be “protectors of privacy.” He is hardly alone in starting from the image of the beneficent public servant, but those adopting a public choice perspective might demur. This gap is important because, although regulators have varying capacities to establish privacy regulations, we can't be fully confident about the effect of this variation unless we know how strong this normative commitment is or

where it comes from. Newman's assertion that European regulators also had turf-related interests in promoting a comprehensive privacy regime closes this gap somewhat, but not completely.

These objections are minor. Overall, this book expertly engages and informs several distinct literatures, an uncommon virtue in an era of disciplinary overspecialization. But more important, I think, is that Newman powerfully injects the topic of individual privacy—an issue of major normative, theoretical, and policy importance at the global, national, and individual levels—into the study of international relations. By framing privacy as a civil rights issue—which many would agree it is—Newman's book opens new avenues for exploring not only the highly relevant topic of regulating the international economy, but also the tensions among individual liberties, commercial pressures, and security imperatives in a digital world.