Emotional Artificial Intelligence and the Right to Privacy

Authors : Emine Akar

Abstract : The majority of privacy-related regulation has traditionally focused on concepts that are perceived to be well-understood or easily describable, such as certain categories of data and personal information or images. In the past century, such regulation appeared reasonably suitable for its purposes. However, technologies such as AI, combined with ever-increasing capabilities to collect, process, and store "big data", not only require calibration of these traditional understandings but may require re-thinking of entire categories of privacy law. In the presentation, it will be explained, against the background of various emerging technologies under the umbrella term "emotional artificial intelligence", why modern privacy law will need to embrace human emotions as potentially private subject matter. This argument can be made on a jurisprudential level, given that human emotions can plausibly be accommodated within the various concepts that are traditionally regarded as the underlying foundation of privacy protection, such as, for example, dignity, autonomy, and liberal values. However, the practical reasons for regarding human emotions as potentially private subject matter are perhaps more important (and very likely more convincing from the perspective of regulators). In that respect, it should be regarded as alarming that, according to most projections, the usefulness of emotional data to governments and, particularly, private companies will not only lead to radically increased processing and analysing of such data but, concerningly, to an exponential growth in the collection of such data. In light of this, it is also necessity to discuss options for how regulators could address this emerging threat.

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