JO LEE: Hello and welcome to the Executive Master in Cybersecurity podcast series. Buckle your seat belts for a fascinating podcast on the human right of privacy with Deborah Hurley, a professor in the Brown Executive Master in Cybersecurity program. Deborah was one of the first and continues to be a leading advocate for privacy as a human right in our hyper digital world.

In a mere 10ish minutes, Deborah gives a crash course on the human right to privacy. The first half is a history of this right from its birth out of the ashes of the Second World War to today. Don't miss the second half where she discusses why this international right to privacy falls short online, and why we as professionals and citizens have a duty to protect it. We start off this podcast asking Deborah, "Why is privacy a human right?"

DEBORAH HURLEY: Well, privacy is a human right, and in many countries around the world people do know that. But in the United States, this is not widely known. Furthermore, many Americans don't realize that the United States was the driving force behind the modern human rights laws and institutions that we have today, including the human right of privacy. So the United States can take a huge amount of credit for the human rights institutions and canon that we have today.

So modern human rights really began with the end of the Second World War in the mid-20th century. So from literally from the still smoldering ashes of the destruction and devastation of World War II, there arose like a phoenix these new universal human rights protections. And Eleanor Roosevelt chaired the international drafting committee that wrote the Universal Declaration of Human Rights.

And that-- it's called the UDHR. That's its acronym. And that's the founding document of the modern human rights era. And it was adopted by the UN General Assembly in 1948 without a single dissenting vote.

So this work, the UDHR drafting committee began its work in 1946 just as World War II was ending. So writing and achieving the adoption without a single dissenting vote in two years' time was high speed in international time, which I will tell you from having worked in an international organization, is its own time zone.

So this is not only an achievement, but it also underscores the gigantic amount of political will
that existed to make a unanimous global statement that human rights are important across cultures and societies, every single one, and are the birthright of every individual on earth. So then, following from the UDHR there were created some additional documents, and I'll tell you their long names. Briefly, it’s the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights. And those are both from 1966.

And those three together, the UDHR and those two, are called the International Bill of Human Rights. So that international bill of human rights is one of the most successful legal regimes in the history of the world. More than 160 countries are parties to those conventions. The adoption and ratification of the main human rights instruments by so many nations underscore the high degree of international consensus on the principles of human rights.

It's not only governments that think about, worry about, and have a job to do with regard to human rights. Protection of human rights is stated again and again throughout these documents as a positive duty and the common obligation of every government, every entity--that means every company, organization, school-- and every individual. So in case you don't already have this on your to-do list, each of you bears the responsibility to safeguard the human rights of every other single person on the planet.

So human rights were considered-- so just to give you another perspective on this, they were considered so important that governments, extraordinarily, agreed to limit their own sovereignty. So they reallocated some of their power to other nations and to international bodies, and some to individuals.

So human rights conventions limit the range of a country’s discretion regarding individuals within their own geographic territory. So, for example, if human rights violations are occurring within a country, the country is in fact-- the government is the one inflicting them or causing the human rights violations, or they’re existing and the government is not addressing them, other governments from outside, other nations have the power to intervene in that sovereign territory to address and to correct those human rights violations. And sadly, we’ve had many of those situations in recent years of human rights violations, but we’ve also had situations then where governments have stepped in to address them.

Another example is that not only are individuals acknowledged as the basis of governmental authority, but individuals may reach-- through the human rights conventions may reach
outside their nation to get redress for human rights violations by their governments. So, for example, if someone's in a country and their human rights are being violated, they go to their government, they complain about it, and nothing is done, or the government itself is violating and keeps throwing them into jail, the conventions-- the human rights rules allow them to reach outside their government for protection and response. And there are many, many examples of this over the decade. And one of the most active human rights courts has been the European Court of Human Rights.

So along with these rights to life, liberty, equal protection of law, presumption of innocence--these are other human rights-- privacy is a human right. And the United States ratified these documents in 1992. They'd ratified the-- or adopted the Universal Declaration of 1948 along with the other countries, but the other components of the International Bill of Human Rights were ratified by the US in 1992.

So for over 65 years, the human right of privacy has been declared, protected, and affirmed in additional treaties, national constitutions, regional regulations, national legislation on every continent, and also in sub-national legislation in provinces, states, and Länder. The United States is the country that catalyzed modern human rights protection. The human rights instruments and institutions, along with their implementation and enforcement, guarantee human rights.

JO LEE: So there are international and national laws that protect our right to privacy. Why do these laws fall short online?

DEBORAH HURLEY: The simple answer to that-- or the quick answer, and then I'll give you a longer answer-- but the quicker answer is that because the United States doesn't have a general legislation, national legislation to protect personal data and privacy. The United States has such dominance in terms of information and communication technologies-- companies like Google, Facebook, Microsoft-- in terms of the market share globally, and those American companies are within the United States subject to US law, obviously.

And so citizens of the United States don't have anything like the same level of privacy protection that most other people on earth do, and especially in developed countries where the level of protection of privacy is much, much higher. And so that's one of the big problems. If we look a quarter century or so after the Universal Declaration of Human Rights-- so back in the mid '70s the United States was still continuing to set the global pace for protection of
privacy and personal data.

And in fact, as the era of mass computerization began, the US recognized the potential to collect and manipulate big troves of personal data. So the United States itself adopted the 1974 Privacy Act, and then they went around the world encouraging other countries to protect personal data and privacy. So that began this impressive roll call that continued through the succeeding decades up until the present day of country after country adopting legislation.

So today over 100 countries have data protection and privacy legislation. So not only is there legislation in these countries and it's widespread, but there is broad agreement about the principles or the provisions of these data protection laws.

But, unfortunately, the US progenitor became the outlier of this 40-year, very strong global trend that it initiated. Although it had adopted the Privacy Act in 1974, it covered only the federal public sector. As information and communications technologies advanced, other countries adopted and amended legislation to include the private sector and the rest of the public sector.

The United States did not keep up with this trend, with the result that Americans have less protection for their personal data today than people do in many other nations. It's ironic, in fact, that US companies, which operate in countries with broadly based data protection and privacy rules around the world, provide a higher level of personal data protection for residents in those countries than they do for the personal data of Americans.

So as an example, in the United States health information is currently the high value haul of the data brokers, because there isn't broad-based privacy legislation to protect it. So that information is bought, sold, and traded among the health establishment, insurers, employers, companies, marketers, anyone else with the meager means to pay the few cents to buy it.

In contrast, imagine a world where an individual owns and controls her medical data, a situation very different from the United States today. Does that sound far-fetched? Well, far from it. This place exists, and it even lies within our solar system. It's called the Netherlands.

JO LEE:

It's great to hear that the Netherlands is so progressive. It's certainly shocking to hear about the state of these laws in the United States and how the country's fallen behind. So with this discrepancy, how can we as professionals in the information age be more cognizant of this right and stay abreast of legal developments on this issue?
Right, first I would say-- urge the United States government to adopt a broad based national data protection, privacy legislation. That would absolutely make the biggest difference in global data protection immediately, and it would return the United States to a welcome leadership role.

India has had a bill to protect data protection and privacy for some years. It keeps reappearing. Its passage, obviously, would bring another billion people under the privacy protection umbrella. China as well presents a harder case, but another billion people could be brought under-- have their data protected. There's not a bill already for that.

In terms of what people can do themselves, remember as I mentioned, there is that positive duty that you're carrying around every day with you to do something about human rights and protect the human rights of others, so certainly building awareness within your own organization and community.

I'll let you know that December 10, if you don't already know, is Human Rights Day. It's celebrated all over the world, including the United States, so plan and do something. It can be something small, but be a node of human rights protections.

There's a publication called "Pole Star-- Human Rights in the Information Society." It exists in English, French, Spanish, and Arabic. It's a very short-- it's a short document to bridge the gap between information and communications technologies and human rights to explain how human rights applies in the information space and in cyberspace, so I suggest you get it and read it. And there's lots of other information out there. Thank you very much.

Thank you, Deborah. And I should note, Deborah did write the "Pole Star" report. And we'd like to thank you for sharing your thoughts today.

Thank you for listening to this podcast. For more information on future podcasts, program news, and upcoming events, please visit brown.edu/cybersecurity.