

Realistic Dilemma and Path Optimization of Online Personal Information Protection

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Abstract: A virtual area made by computers is called cyberspace. People there lead non-traditional lifestyles. It has evolved into a different manner of living from the physical realms of land, sea, air, and space. Lifestyle changes have also led to the emergence of some network security problems, including invasion of privacy, identity theft, financial fraud, and more. In today's world, cybersecurity is not only a trendy topic but also a crucial issue to protect the interests of cyberspace's development, security, and sovereignty. The "Personal Information Protection Law of the People's Republic of China" offers numerous highlights in terms of fundamental principles, scope of adjustment, and protection models, and offers an institutional response to the main challenges faced by personal information protection in the big data era. To strike a balance between information protection and information freedom, the Internet industry must continue to bolster industry self-discipline, raise public awareness of the right to protect personal privacy information and enhance public understanding of the legal protection of personal privacy information rights.

Keywords: Personal information protection, big data, legal regulation, legal protection

1. Introduction

The 50th edition of the "Statistical Report on China's Internet Development" was released in Beijing on August 31, 2022, by the China Internet Network Information Center. It stated that as of June 2022, there were 1.051 billion Internet users in the country, with a 74.4% Internet penetration rate. Furthermore, 2.32 million APPs were being monitored countrywide by the end of June 2022, according to data from the Ministry of Information Industry [1]. With so many users, there is a growing need for the security of personal information every day. While the Criminal Law Amendment created new crimes such as selling personal information and illegally providing information, it also added protective categories for personal information. Criminal law, however, can only limit the unlawful activity of information subjects; it is challenging to limit the gathering of personal data by businesses, hotels, shopping centers, and other organizations. Strengthening the civil law protection of personal information is therefore required.

The first is the necessity of upholding one's dignity. Personal dignity is a concrete manifestation of the respect and value judgment of online people in society, although "maintaining personal dignity" is reflected in the constitution. Nonetheless, it is challenging to give the evolving interests of netizens in their personalities adequate consideration within the framework of computer networks. When using online services, their dignity is frequently compromised. In general, personal dignity refers to the

public's deep awareness of their worth as well as the deference they ought to get in social situations [2]. In addition to evaluating the existence and severity of violations of human dignity from a subjective standpoint, society also needs to determine if these violations have violated the dignity of the individual from an objective standpoint. At this point, the public's reputation can be harmed by a picture, video, or text posted online. Civil law regulations that govern the gathering and utilization of personal data online can effectively protect the public's human dignity.

Protection of property rights is necessary, too, in the second place. Network providers have been made aware of the commercial prospects that exist inside personal information on the Internet. Network operators often gather personal data from users via network exchanges, network collecting, network dissemination, etc. to profit from them. A tiny percentage of subjects also recognize the significance of this economic worth in the network environment. Certain researchers in our nation have clarified the economic value contained in personal information. However, because our nation's laws do not safeguard online personal information, it is challenging for netizens to employ legal means to defend their property rights and personal information when it is violated. As a result, network operators will stealthily violate users' privacy online and use it for their gain. The issue of information abuse may be effectively controlled and the personal information of internet users can be more thoroughly and successfully protected if the property rights attribute of information is made clear in civil law.

2. Realistic Dilemma of Online Personal Information Protection

In the Internet age, the issue of unauthorized access to personal information is rather widespread and has a big influence on how well the general public participates in social life. Strengthening the civil law protection of personal information is necessary and important from the standpoint of personal dignity and property rights of personal information on the Internet [3].

But even though there are two types of civil law protection for personal information—"direct protection" and "indirect protection"—it has been discovered through theoretical analysis and research that indirect protection primarily refers to shielding personal information rights from infringement by preserving one's dignity, privacy, and other rights. The term "direct protection" describes how laws and regulations are used to safeguard the private information of internet users. This is primarily achieved by establishing the rights and obligations of service providers about the use and collection of personal data, as well as by elaborating on the concepts of necessity, legitimacy, and legality. The protection of information under civil law still has certain glaring shortcomings. This is particularly evident in the subsequent elements:

2.1. Lack of "Legislative Establishment"

Currently, the primary foundation for my nation's civil law protection of online personal information is privacy protection. Since there are clear distinctions between the protection of personal information and the protection of privacy, that is, between the clear distinctions in the techniques and content of the two types of protection. As a result, in judicial practice, society should define the interests represented by personal information as personal information rights. On the other hand, the right to information has not yet been "confirmed" by law in our nation [4]. There is also no clear stipulation of the legal content and legal attributes of personal information, which leads to a lack of legislative confirmation of personal information rights.

2.2. Challenges of the network environment

The rights of subjects and the obligations of controllers are primarily outlined in the civil law protection of online personal information, and this is further specified by applicable legislation.

Nonetheless, certain duties and rights find it challenging to be congruent with the network environment because of the peculiarities and attributes of the computer network environment [5]. For instance, the "Information Protection Decision" mandates that before the controller using personal information online, the "information subject" must consent to the controller's information gathering. Nevertheless, it's unclear if the act is carried out explicitly or indirectly. Furthermore, even though the rules and regulations of my nation currently in effect specify the controller's responsibilities, including precisely defining the extent, mode, and goal of information collection. On the other hand, depending on the communication features of the computer network environment, there is no mechanism for notification duties following infringement.

2.3. Personal information protection content settings

"Legal interest theory has two directions of thinking: one is to think in the direction of ideas and values, and the other is to grasp the direction of facts and causation." Stakeholder theory gained popularity in social governance after being first implemented in the corporate governance space. "Any individual or group that affects or is affected by the achievement of organizational goals" is referred to as a stakeholder [6]. When a conflict of interest arises, the judge's consideration of the parties' interests in each case amounts to nothing more than giving various legal interests varying "importances" according to the particulars of each case.

2.4. The regulatory system should be enhanced

Processors of personal information are subject to particular requirements outlined in Article 58 of the Personal Information Protection Act. Article 58 of the "Personal Information Protection Law" outlines the following special duties: "(1) Create and enhance the system for protecting personal information in compliance with national laws, and establish an independent agency primarily made up of external members to oversee the protection of personal information; (2) Adhere to the values of transparency, equity, and impartiality; (3) Handle individuals who flagrantly violate legal and administrative regulations about the handling of personal information; (4) Create platform rules and make clear the expectations for product and service providers regarding the handling of personal information on the platform, including their obligations to protect it. The platform's product and service providers will stop offering their services; (4) produce social responsibility reports on the protection of personal information regularly and submit them to social oversight. Among these, the first paragraph's description of the "independent agency composed of external members" is vague and has to be specified more to accomplish the goal of legal control. Important personal information processors are given the "power" to enact laws, enforce regulations, and oversee operations under the requirements of paragraphs 2 and 3. Nevertheless, the "Personal Information Protection Law" does not restrict this "power," which makes it susceptible to abuse. The "Personal Information Protection Social Responsibility Report's precise content, publishing schedule, and process are not covered in detail in paragraph 4.

3. Optimization of Paths for Online Personal Information Protection

3.1. The importance of self-discipline

To monitor, track, analyze, and integrate citizens' personal information, the big data business still needs to bolster industry law enforcement and industry self-discipline in the network environment. Although the law imposes external restrictions, as people are all aware, the industry must also impose some restrictions. The company has to eradicate illegal activity and put in place a strong internal self-discipline system [7]. Assessing and training the industry's overall quality is important. In particular,

it's important to bolster employees' professional training. Lastly, encourages self-discipline throughout the whole sector and raises the industry's general degree of self-discipline. For instance, societal factors have been involved in the prevention and control of epidemics in the recent past. Medical facilities that use network big data can effectively master and gather personal information for prevention and control if it is routinely supplied by their industry. Personal data increases productivity, allowing us to better serve society and assist our nation in overcoming the challenges posed by the pandemic. This is the industry-wide linking system that guarantees the privacy of personal data. The involvement of a third party in the process of exchanging personal information may also provide the battle against the disease additional vigor. Therefore, our country can learn from this model and build a set of third-party industry participation models that are in line with China's national conditions, making information participation and information sharing a common goal for the whole society.

3.2. Information protection rights awareness

Although our nation is paying increasing attention to the legal protection of personal privacy information in today's rapidly developing Internet environment, the level of attention is still very low because, because of the characteristics of cultural traditions, the legal protection of personal privacy information highly reflects the right of individual free will. Therefore, Chinese residents' understanding of the legal protection of personal privacy information is not as high as it is in Western countries. Due to a lack of legal awareness, consumers frequently overlook protecting their personal privacy information when shopping or offering services online, despite the rapid advancement of e-commerce technologies. Furthermore, there are still gaps in my nation's pertinent laws and regulations on the internet. Due to improvements, citizens now face significant obstacles when it comes to the legal protection of their personal privacy information. Thus, in the highly evolved Internet world of today, society should begin with the following areas to preserve personal privacy information legally and obtain twice the results with half the effort:

First, through online advertising videos, WeChat, QQ, Weibo, and other highly developed network environments, consumers' understanding of personal privacy information prevention should be improved. Second, there should be a variety of training approaches offered by the government's market management division. Internet users and consumers should be made fully aware of the laws and regulations about the protection of personal information, should be reminded to maintain a high standard of legal awareness regarding personal information, and should be reminded to carefully and thoroughly understand their rights regarding personal information when using online services or shopping. several provisions warning against network operators' irrational gathering of personal data to protect their legal rights and interests. Third, users ought to behave civilly when using the Internet for self-serve and deliberately avoid sharing or leaking information. Respecting the rights of others to their personal information will help prevent tragedies like the death of people being sought by the police, create a peaceful online community, and safeguard people's legitimate rights and interests. Do not collect and publish other people's personal information carelessly.

3.3. Legal protection awareness

According to Chairman Xi Jinping, there has been a noticeable surge in the number of online cases involving the infringement of personal information due to the Internet's rapid expansion. As a result, society should actively protect personal privacy online and fully utilize the judiciary, which is our final line of defense for upholding social justice and fairness. legal defense to uphold the online community's regular order of justice, fairness, and peace. Thus, society first enhances the pertinent laws on the burden of proof in judicial practice in our day-to-day operations. Because of the features

of network technology, the infringing activities in cases of network infringement are hidden and intangible, making it more difficult to extract evidence and challenging for customers to learn that their lawful rights and interests have been violated. On the other hand, it is exceedingly challenging to recover evidence after it has been intentionally erased by network operators. Due to their lack of Internet understanding and the fact that infringers are frequently anonymous, it is particularly difficult for regular customers to identify the genuine identity of the infringement in civil litigation cases. This makes it challenging for law enforcement to identify potential targets for prosecution. Therefore, to effectively defend the infringed party's litigation rights, judicial organs should reasonably lessen the plaintiff's burden of proof and impose an equivalent legal obligation on the infringement. This will effectively prevent incidences of online violence like "human flesh search" and safeguard consumers' right to personal privacy information as well as the victims' lawsuit rights.

Second, given the current state of information technology and the Internet environment, the victim's life will suffer greatly and his soul will suffer irreparable harm if personal privacy information is compromised. Therefore, depending on the severity of the victim's mental injury, the court must, in a lawsuit, provide the maximum amount of support for the victim's claim for mental harm. In judicial practice, the judicial department must develop certain operability standards for cases that are comparable to prevent potentially disparate decisions in situations that are similar—mental harm, including particularly severe and extremely severe mental harm [8]. The victim's personality is severely insulted, they lose their ability to work and live normally, experience an extreme emotional breakdown, and in the latter case, they may even commit suicide or engage in self-harming behaviors. The former is characterized by a sharp decline in the victim's neighborhood and social evaluation and their inability to work, study, or live normally. While the latter requires that the infringement seriously insults the victim's personality, causing him to lose his ability to live and work normally, suffer an extreme emotional breakdown, and even lead to behaviors like self-mutilation and suicide, the former requires a sharp decline in the victim's social evaluation and neighborhood evaluation, making it impossible for the victim to live, study, and work normally. To maximize the victim's compensation, several particular case variables must be carefully taken into account.

3.4. The balance of freedom of information

It is necessary to determine which personal interests come first. Our nation should create a protection system to preserve personality interests and make clear personality priorities in the framework of the Civil Code's execution. That is, the instrumental value of information is emphasized under the premise that information freedom satisfies the requirements of enterprise economic development and government management. However, the importance of upholding one's dignity should be emphasized when it clashes with instrumental principles. The second is striking a balance between information security and freedom. The definition of the right to information should serve as the foundation for striking a balance between personal dignity and information freedom. The right to information's purpose, subject, and associated rights can then be fully described. Society can only more clearly define which circumstances are appropriate for personal dignity in this way. In addition, when drafting general laws and legal precepts, society must strike a balance between human dignity and information freedom. Limiting information protection and concentrating on information freedom is the final step. Personal information cannot be blindly protected. Social and economic progress will be impacted if personal information protection receives undue focus. Thus, to maintain a balance in the relationship between the two, society ought to give information freedom more consideration. Building an information rights use system and addressing the issue of personal information marketization, for instance, can enhance the promotion of information circulation and utilization, enabling personal information resources to effectively support the growth of the social market economy while being safeguarded.

4. Conclusion

People eagerly anticipate more personal information protection in the information era, and in the big data age, governments and businesses must act quickly to support the growth of the digital economy. The growth of the digital economy offers "instrumental rationality" for the use of personal information if the public interest instills "value rationality" into the restrictions on personal information. Big data is an all-encompassing archive of information. It's referred to as the "oil of the information age" and plays a major role in driving the development of Digital China and helping my nation accomplish its big data plan. From a practical perspective, the widespread application of big data has led to the unauthorized use or abuse of citizens' personal information, seriously infringing upon citizens' legitimate rights and interests. A balance should be struck between complete data empowerment and personal information protection, between personal information value mining and individual subject information self-determination rights, and between big data information sharing and privacy security protection, all while fostering the growth of the digital economy. In recent times, striking a balance has become a major problem for all facets of society.

The "Personal Information Protection Law" was passed, establishing the Internet legal framework in my nation. On the other hand, law enforcement and justice must provide follow-up reports in light of the enactment of the Cybersecurity Law, Data Security Law, and Personal Information Protection Law. Both the development of the digital economy and the security of personal information have a long way to go, from conception to implementation. However, society should also work to reform institutional mechanisms, develop new business formats that incorporate creative co-governance concepts and prudent supervision principles, and make clear the rights and behavioral norms of various subjects about the protection of personal information. Finally, society should continue to advance the development of my nation's big data legal system following the requirements of good law and good governance—boundaries, concentrating on managing the legal interactions between people, businesses, nonprofits, and government agencies.

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