

Research on the Self-determination Right of Biometric Information in Taiwan, China

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Abstract: *The right of self-determination of personal information refers to the right of individual citizens to decide when, where and how their information is obtained, stored and used, as well as restrictions on other aspects. The right of self-determination plays an important role in the protection of biometric information. This paper will deeply explore the emergence and connotation of the right of self-determination. At the same time, through the introduction and analysis of the right of self-determination in Taiwan, China's personal data protection law, this paper discusses the legal system of the right of self-determination in the protection of biometric information, especially how to give full play to the key role of individuals in information protection with the hope to further improve China's personal information protection law.*

Keywords: *Biometric information, Right to self-determination, Personal data protection act, Enlightenment*

1. Introduction

Biometric technology is a technology that automatically identifies or verifies a person's real identity according to a person's unique physiological characteristics, involving fingerprint, face, iris recognition and other technologies. In April 2010, Taiwan, China promulgated the personal data protection law, which fully guaranteed the security of citizens' personal information.^[1] Based on the analysis of the emergence of the right of self-determination, this paper intends to analyze the right of self-determination in Taiwan, China's personal data protection law, with the hope to be beneficial to improve China's personal information protection law in a further way.

2. The emergence and connotation of the right of self-determination

2.1 Emergence of the right of self-determination

The core content of the right to self-determination is the emphasis of the rights of citizens and individual discretion and independence. The wide application of face recognition technology has brought many challenges to biometric information protection, which has triggered a general discussion on biometric information protection in the public and academic circles. Due to human self-esteem, everyone maintains personal privacy and keeps their information confidential. Therefore, instead of infringing on personal privacy or information confidentiality, we should try our best to avoid improper and illegal disclosure of personal information.^[2] Once the information of biometric technology is leaked, its content may become a product used in the sales market, which may lead to the violation of the most important personal freedom of individuals. According to different scenarios, you can choose to join or license in the way of "wide permission". Without the right to self-determination, it is difficult for individuals to manipulate and choose the content of information they collect and apply. It is impossible for individuals to fully understand who is sharing and applying their own information content, what terminal devices they copy, apply, share and mine, and so on. If the right of self-determination cannot be realized, it will further threaten the protection of biometric information.

2.2 Connotation of the right of self-determination

The right of self-determination includes two meanings: an independent person must be a person with freedom, that is, not subject to external forced regulation and manipulation, nor to the temptation of external honor and wealth. An independent person must have independent understanding ability, logical

reasoning ability, thinking ability and choice ability, and be able to choose and become himself according to his objective state. From this analysis, we can see that the key of bioethics self-determination is "independent choice" and "independent action". Independent choice is to choose a choice suitable for their greater interests according to the actual situation. Independent action meets three conditions: first, the action is an action carried out purposefully; Secondly, this action is based on full understanding, that is, it is not made under external threat or coercion ^[3].

The author believes that the so-called right of self-determination refers to the control, storage, deletion, change, acquisition, selection and use of biometric information by citizens without affecting the public interest. That is, individual citizens have the right to decide when, where, how to obtain, store and use their information, as well as other restrictions.

3. The main contents of the right to self-determination in Taiwan, China's personal data protection law

Article 3 of Taiwan, China's personal data protection law clearly stipulates the parties' right to self-determination, which includes: the right to query and request reading, the right to request reproduction, the right to request supplement or correction, the right to stop collection, processing and utilization, and the right to request deletion.

3.1 Main contents

The right of inquiry, the right to request reading and other relevant rights are the beginning of the exercise of the right of self-determination, which are the basis for the parties concerned to exercise other rights. Article 10 of the personal data protection law of Taiwan, China Province stipulates that public or non-public authorities shall, at the request of the party concerned, have the right to request to view or browse the personal data they collect. Except as provided by laws and regulations, the state public service administrative organ or non-public administrative organ shall allow the reply, viewing and browsing of personal information according to the requirements of relevant parties. Individuals of the developer platform also have the right to request to view or browse the biometric information stored in the developer platform service provider or third-party developers, so as to better control their own biometric information.^[4]

The request system gives the right of reproduction. Article 10 of the personal data protection law stipulates that public or non-public organs shall copy according to the requirements of the parties concerned. The development of contemporary science and technology promotes that copying is not limited to paper materials. The copying of electronic equipment can save time, energy and cost. The developer platform customer has the right to require the service provider of the service platform or the third-party developer to provide copies of personal data stored on paper or electronic devices.

Right of supplement or correction. "The right of request for change originates from the right of self-determination of news information and is a general standard for information analysis and maintenance. Change should be the obligation of all storage management institutions to modify information. The right of request for change includes not only the change of incorrect data, but also the decision to correct or fill in the data stored by relevant parties." Individuals can timely ask the service provider of the service platform to fill in their biometric information to ensure that the biometric information presented is detailed, appropriate and timely. For personal information stored incorrectly, individuals have the right to request changes to protect their good personality and brand image.

Request deletion rights. The performance of the right of deletion is to ensure that personal data will not be used in other fields after being used for special purposes. Paragraph 3 and 4 of Article 11 of the personal data protection law require that the right of deletion can be fulfilled in two situations: the disappearance of special purposes or the expiration of the time limit; Collecting, processing or using personal data in violation of the provisions of this law. When the special purpose of collecting personal information disappears or the period expires, the data service platform and third-party developers shall delete their biometric information on their own initiative or at the request of individuals, unless it is necessary for the performance of official duties or with the written permission of individuals. Biometric information collected, solved or used in violation of regulations shall be deleted on its own initiative or according to individual requirements. The personal data protection law stipulates that the parties have the right to claim damages in addition to the above five types of self-determination.

The right to request the cessation of collection, processing or utilization. The requirement to terminate

the right to solve, use and collect is similar to the "information prohibition right" in German law. The requests for termination and use in paragraphs 2, 3 and 4 of Article 11 of the personal data protection law are divided into three categories: objections to the accuracy of the data, disappearance for special purposes or expiration of the time limit, and the use of personal information "violates the provisions of this Law". When the developer platform raises an objection to the accuracy of biometric information, the special purpose of collecting personal information disappears or the time limit expires, the public or non-public authorities shall, on their own initiative or at the request of the parties, terminate the collection or use of their biometric information, unless it is necessary for legal provisions or personal written permission.

3.2 Brief comment

The personal data protection law gives many specific and operable provisions to the parties to exercise the right of self-determination, which is worthy of our reference, but which does not give enough respect to the status of the right of self-determination. For example, Article 15 of the personal data protection law stipulates that there is no infringement of the rights and interests of the parties when the public authorities collect or process personal data, except for the data specified in paragraph 1 of Article 6, within the scope necessary for the performance of legal duties for specific purposes and with the written consent of the parties. However, for some reasons, the parties may still disagree. This is also the case in Article 19, paragraph 1, and Article 20. In fact, there are many reasons for the excessive erosion of the right to self-determination.

4. Some enlightenment on perfecting the right of self-determination in the protection of biometric information in China

China's personal information protection law defines the right of consent in Articles 13 and 14, the right of withdrawal in Article 15, and the right of transfer in Article 45. However, there are still regrets about the design of the right of self-determination in the personal information protection law.

First of all, the "General Provisions" do not give the right to self-determination a high degree. Although Articles 1 and 2 of the personal information protection law clearly "protect the rights and interests of personal information" and "the personal information of natural persons is protected by law", emphasizing the standards and other fields that should be followed in biometric information processing, they failed to pay enough attention to the right of personal information in the "General Provisions" and promoted to the right of personality, and the right of personal self-determination established is not firm enough.

Secondly, the content of the right to self-determination is not comprehensive enough. Chapter IV of the personal information protection law, "individual rights in personal information processing activities", defines individual rights in personal information processing activities, including the right to know, the right to make decisions, the right to inquire, the right to correct, the right to delete, etc., and requires personal information processors to establish an application acceptance and processing mechanism for individuals to exercise their rights (articles 44 to 50). In this chapter, there is no provision on the right of individuals to request to stop collection, processing or utilization, which is insufficient for the protection of personal information. At the same time, there is also a lack of provisions on the exercise of the right of refusal by the parties.

Thirdly, the exercise of the right to self-determination is not completely unimpeded. Article 18 of the personal information protection law of the people's Republic of China stipulates that "if a personal information processor handles personal information in a situation that should be kept confidential or does not need to be informed according to laws and administrative regulations, he may not inform the individual of the matters specified in the first paragraph of the preceding article". In such a special law, it should be clear which situations cannot be informed. As for the list of situations that should not be informed, it is not simply "stipulated by laws and administrative regulations". Otherwise, there will be some uncertainty.

5. Conclusions

Through the introduction and analysis of the right of self-determination in Taiwan, China's personal data protection law, this paper puts forward some problems, such as the "General Provisions" of China's

personal information protection law does not give the right of self-determination a high degree, the content of the right of self-determination is not comprehensive, and the exercise of the right of self-determination is not completely unimpeded, in order to be beneficial to the construction of the rule of law in China's personal information protection.

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