

Privacy of Chinese Public Figures and the Right of Media Interview

Yuan Gao

University of Electronic Science and Technology of China School of Public Administration, Chengdu, 610000, China

**Corresponding author: 843316854@qq.com*

Abstract: *With the development of network technology in modern society, self-media applications are becoming more and more extensive, and self-media platforms are also emerging. Due to the lack of corresponding regulation and supervision, everyone's privacy has been violated to a certain extent. In this respect, public figures are under greater pressure. As public figures, they will inevitably expose some private information more or less. Some self-media people even dig deep into the personal privacy of some public figures by hook or by crook and make it public. However, the information disclosed by public figures should be limited to the information related to work, and other private privacy rights should also be protected by privacy rights. Moreover, due to the particularity of public figures, the protection of their privacy rights is mainly provided by a more perfect civil law system.*

Keywords: *We-Media, Individual privacy, Right of privacy*

1. Introduction

In the case of Xinyu Liu appealing to Beijing Baidu Netcom Technology Co., Ltd. in 2016, Xinyu Liu claimed that since May 2014, Beijing Baidu Netcom Technology Co., Ltd. published its native place, age and real name on Baidu website without its consent. And distributed multiple photos, this behavior seriously violated its privacy rights; Baidu Company believes that Xinyu Liu is a public figure and his privacy should be restricted. Although the court finally rejected Xinyu Liu's claim on the grounds of repeated prosecution, the case still raised some key issues, such as how to identify public figures. What does the right to privacy include? There is not only one kind of public figures. From the perspective of public interest and subjective will, we divide public figures into two categories, namely political public figures and social public figures, while social public figures include not only the stars of performing arts who are voluntarily exposed to the spotlight, but also the citizens who appear in the public view only because of specific events, not out of their own will

Although there are various theories in academic circles, there are no clear regulations in our legislation. Therefore, in the contemporary society where the network technology is developing rapidly and the privacy of public figures is frequently violated, it is necessary to further improve the legislation of the privacy of public figures in our country in order to protect their privacy and form a good social atmosphere, so as to increase the vitality of judicial practice.

2. Related Theories on Privacy Protection of Public Figures

When it comes to the word "public figure", although we don't know which categories it can be divided into, the images of various entertainment stars and business tycoons will naturally appear in our minds. The public thinks that they have rich resources and great social influence, so their rights should be limited. Privacy is one of the personality rights, especially so. Some people even put forward that senior officials have no privacy and public figures have no privacy. There are many researches on the restriction of public figures' right to privacy, some of which advocate restricting them for the purpose of safeguarding public interests, some of which restrict them for the purpose of protecting citizens' right to know, and some of which protect the reasonable interests of the public Doctrine. Although there are many theories, the core point is that the right to privacy of public figures involves public interests. Public figures, especially political public figures, as officials serving the people, are naturally closely related to public interests. Restricting some of their privacy rights, such as personal information and financial information, is also out of the need of safeguarding public interests and supervising officials.

Social public figures, however, often have great social influence, and their personal behaviors often influence others' values and behaviors. Restricting their privacy rights can safeguard social public morality and cultivate good social atmosphere.[1]

3. Conflicting Right to Privacy and Reporting

There is an inevitable potential for conflict between the right of news media reporting and the right of citizens' personality with personal privacy protection. On the one hand, the concrete manifestation of the development of journalism is that social information is richer, and the right of news media reporting is an important means to promote the development of journalism. The realization of the right of news media reporting depends on the opening of society, which requires all kinds of information to be easily obtained. If the acquisition or transmission of information is hindered or restricted, the right of news media to report can not be realized, which in turn will restrict the development of journalism. On the other hand, the right to privacy itself has a conservative attribute, and the exercise of this right aims to protect the privacy of the obligee and avoid the disclosure of his privacy without his consent. As a result, there is a fierce friction and exclusion between the expansion of social information resources and the protection of personal information. Over-emphasizing the protection of privacy rights will limit the total amount of information resources in society, and to a certain extent hinder the smooth circulation and dissemination of information resources necessary for the right of news media to report. In the long run, Mr. Wei Yongzheng said that "there is no absolute clear boundary between individuals and society, and it will inevitably happen if everyone's affairs are closed as privacy and the normal circulation of social information is not taken care of".[2]

For this reason, the news media always dig the privacy of citizens as deeply as possible, and spread it through reports to satisfy people's right to know. "The media is like a window. The bigger the window is, the more scenery we see. However, at the same time, others can see us through this window." Therefore, the abuse of the right to report by news media, such as using the names and archival materials of the parties privately, and disclosing the physical illness, property status, marital status, family situation and past personal disgraceful records of the parties, inevitably exists in practice. In this way, the conflict between the right of news media to report and the protection of privacy will inevitably break out.

4. Reasons for the Tense Relationship between Privacy Right and News Media Reporting Right

4.1 The two are antagonistic in nature of power

The purpose of the right to privacy system is to guarantee the right subject's complete control over his personal information, to ensure that the right subject can dispose of his personal information freely according to his personal wishes, and to prohibit others other than the right holder from interfering with it. Privacy is a negative and defensive right, and its main function is to maintain personal peace. Its realization usually does not need to take the initiative to contact with the outside world, but must depend on the outside world not to invade and interfere with it. This is of great significance to modern people. Therefore, when an event involves personal so-called private information, based on the instinct of self-defense, people tend to adopt conservative strategies, and privacy holders will adopt various means and measures to prevent such information from being "leaked out" and prevent their private space from being approached and invaded by others. "Therefore, its (privacy) is conservative and closed."

The essence of news media reporting right lies in "disclosing the real information to the public to meet the needs of citizens' right to know, which is characterized by openness". Because the news media's right to report is open and expansive, the less known the secret information is, the more beneficial it is to news organizations. In order to satisfy people's curiosity and attract the attention of as many audiences as possible, news activities can easily go beyond the necessary boundaries, unknowingly invade other people's private life space, and publicize and publicize the private information owned by the reported objects but avoided being known by outsiders. As a result, the right to privacy and the right to report in the news media are confronted in essence, and in reality, the conflict between them is inevitable.

4.2 There is an intersection between the two power boundaries

Law is the regulator of social relations. In order to facilitate the application of law, legislators often divide social relations according to their own understanding of social relations, and then regulate people's behavior by establishing rights and giving obligations, so as to realize the orderly operation of various social relations and achieve social harmony and stability. However, as we all know, human cognition has limitations. Legislators' understanding of social relations can only be close to social relations, and it is impossible to fully and accurately reflect the whole picture of social relations. Moreover, social relations are extremely complex and constantly changing, so legislators cannot grasp the changing situation of social relations in time. Therefore, this artificial division based on the subjective understanding of social relations will inevitably lead to the emergence of some marginal areas that highlight different rights values, and it is extremely difficult to completely separate them from other social relations, thus creating legal fuzzy areas and legal loopholes. On the one hand, for certain social relations, different laws may make adjustments from different angles; On the other hand, different laws ignore the adjustment of certain social relations.

The reason for the conflict between the two rights is that the boundary between the two rights is not clear, which leads people to unknowingly invade the free space allowed by the other right when fully exercising one right. Specifically, the reason why the news media's right to report and the protection of privacy conflict is that the news media's news reporting activities have exceeded the "bottom line" that they should keep, and without the consent of the privacy owner, they have intruded into the field that the privacy owner is trying to keep and does not want to be known to outsiders, and this field has been confirmed by legislation to be a privacy information space in the legal sense, thus invading the freedom of the privacy owner.

However, in real life, personal information space is not isolated from the rest of the world, and there is always an intersection between personal information space and social public information space, and information exchange depends on it. However, it is difficult to distinguish between private information space and public information space only by its ability.

However, in the news activities, the news media have the right to freely publish news reports and make use of their speech without interference according to their duties. At the same time, the reported objects have the right to protect their privacy from infringement. This creates a dilemma. Due to the loopholes in the current law, the boundaries of the two rights are not clearly defined, so there is no corresponding legal basis for how to demarcate this "blending zone". As a result, it is difficult to avoid the conflict between the right to report and the right to privacy. In addition, the inevitability of the court's judgment will inevitably protect one kind of right and put the other at a disadvantage, thus aggravating the conflict of rights.[3]

5. How to Protect the Privacy of Public Figures

5.1 Strengthen legislation and build a scientific legal protection system

Legislation is an important way to solve the problem of privacy right in China. At present, the protection of privacy right of public figures in China should make clear the scope of privacy right by perfecting legislation. In order to realize the perfect protection of public figures' privacy rights, the most important thing is to perfect legislation and define the scope of privacy rights at the legislative level.

5.2 Standardize the administration of justice and limit the discretion of judges

After defining the scope of the right to privacy in legislation, there will still be problems in the application of laws in practice, and legislation cannot always be ahead of reality. Therefore, when encountering difficult problems in reality, we can fill the gaps in laws and play a reference role by promulgating judicial interpretations and guiding cases. In addition, when judging whether a specific act infringes on the privacy rights of public figures, we should pay attention to whether the privacy contents of public figures are related to public interests, and specifically judge whether it constitutes an infringement act according to different cases.[4]

5.3 Using the administrative supervision power of the government to prevent the occurrence of tort

The government should strengthen the construction of ethics and morality. At present, when paparazzi and the media are competing to report the privacy of public figures, people don't seem to think that the behavior of paparazzi and the media is inappropriate, but only regard these privacy as the capital of anecdotes and gossip. Under this unhealthy trend, it is not enough to protect the privacy of public figures only through legislation. Only by strengthening the construction of ethics and morality, improving people's personal quality and enhancing people's concept of privacy protection can we address both the symptoms and root causes. The government can publicize the concept of privacy through the Internet or hold specific events.

6. Conclusion

The government should strengthen the construction of ethics and morality. At present, when paparazzi and the media are competing to report the privacy of public figures, people don't seem to think that the behavior of paparazzi and the media is inappropriate, but only regard these privacy as the capital of anecdotes and gossip. Under this unhealthy trend, it is not enough to protect the privacy of public figures only through legislation. Only by strengthening the construction of ethics and morality, improving people's personal quality and enhancing people's concept of privacy protection can we address both the symptoms and root causes. The government can publicize the concept of privacy through the Internet or hold specific events.

References

- [1] Y.J Cheng, W Wang, J.X Xu. *On the legal protection of the right of privacy of public figures in China [J]. Journal of Chifeng University (Chinese Philosophy and Social Sciences Edition), 2019, 40(12): 26-29.*
- [2] Y.Y Wang. *Legal Protection of Stars' Privacy [J]. Legal Expo, 2019(12): 245.*
- [3] Y.H Zhang. *Privacy Protection of Public Personages in the Environment of We Media [J]. Modern Business Industry, 2019, 40(10): 124-125.*
- [4] J Sun. *Conflict and Coordination between Public Figures' Privacy and Public Right to Know [J]. Legal World, 2019(16): 82.*