

The Conflict and Balance between Public Disclosure of Judicial Documents and Personal Data Protection: An Examination of the Anonymization Mechanism

Weitong Yu

Anhui University of Finance and Economics, Bengbu, Anhui, 233030, China

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Abstract: The public disclosure of judicial documents has produced numerous positive effects in judicial transparency, fairness, legal public education, risk prevention for societal entities, and specialized education and research across various industries. However, without a clear understanding of the primary functions and value of public disclosure, excessive exposure of litigants' personal information and privacy in these disclosed documents has led to a conflict between public interest and individual rights. It is recommended to prioritize the protection of individual rights and procedural justice, in tandem with the proportionality principle, to achieve public interest objectives with the least infringement on personal rights. By utilizing an anonymization mechanism, a dynamic balance between the public disclosure of judicial documents and personal data protection can be established.

1. Introduction

What tangible effects has the public disclosure of judicial documents achieved? Has the openness of such documents genuinely ensured judicial fairness? Is there a contradiction between the public disclosure of judicial documents and the protection of citizens' rights? Has judicial transparency, while creeping in its implementation, compromised the dignity and credibility of the judiciary? When the judicial disclosure of court documents intersects and conflicts with personal data protection, several dilemmas arise in practice: First, should the personal data of litigants and judicial personnel be protected? Are they entitled to privacy rights? Second, how do we interpret the protected personal information and privacy rights of litigants and judicial personnel during the disclosure of judicial documents? Third, how can a balance be struck between the public disclosure of judicial documents and the protection of personal data and privacy rights of litigants and judicial workers?

2. Current Situation: The Dilemma between Public Disclosure of Judicial Documents and Personal Data Protection

In judicial practice, there have been several instances where litigating companies or individuals requested the withdrawal of court documents from the China Judicial Document Website. The

public disclosure of these documents allows companies' litigation histories to be digitally recorded, analyzed, and subsequently influences other entities' evaluations of them within their operational domain. This is compounded by professional enterprise data analysis databases and their system algorithms, which directly impact a company's financial credit and transactional partnerships. For individuals, besides the mentioned issues, the traditional close-knit society in China brings about negative assessments and influences. For judicial adjudicators, their past workplaces, identities, judicial perspectives, and adjudicating characteristics can all be tracked and profiled through large-scale data analysis and systematic data processing. This ranges from being specifically guided by litigants during the litigation process to having personal traits entirely exposed to the public eye and scrutiny. To a certain extent, the judiciary's transparency has inadvertently led to the involuntary disclosure of information about court officials. Whether the transparency of judicial processes and content must include the personal information of judicial workers has not garnered attention. Whether those in judicial positions should bear the risk of involuntary disclosure and the scrutiny of the entire society remains a matter for debate.

3. Causes: The Value Conflict between Public Disclosure of Judicial Documents and Personal Data Protection

3.1 The Value Foundation of Personal Data Protection—Dignity and Freedom

Personal data and personal privacy are not synonymous. The inherent rights implied by privacy include the peace of private life and the confidentiality of private information, where others are prohibited from illegally intruding, probing, collecting, exploiting, and disclosing.^[1] While personal information emphasizes the direction of the object, personal privacy emphasizes the confidentiality of the information. Even though their perspectives differ, at their core, they align in value orientation. Individuals have the right to determine their lifestyle and its contents without interference or influence from others. They should be guaranteed a private "haven" in public life and the public eye, allowing them a certain degree of solitude in time and space. This ensures they can face their genuine thoughts, desires, and behavioral habits and can freely develop their personalities without judgment, manipulation, or even violation by others. In essence, the value foundation of personal data and privacy protection can be summarized as "personal consciousness" and "individual personality."^[2]

We do not wish for our private lives and freedoms to be unlawfully exposed to the public eye. We should have the autonomy to decide if our personal data is disclosed, when it is disclosed, and the extent of its disclosure. The right to make choices independently and autonomously needs to be respected, fulfilling the sense of personal dignity and thereby protecting the interest of personal dignity. The 21st century is an era of information. The value of information utilization, no matter in what aspect, will bring about significant systemic changes and value effects. The rapid spread of information in the digital age means that any exposure of personal data at a certain time and place becomes a permanent record across all times and spaces.

4. Causes: The Value Conflict between Public Disclosure of Judicial Documents and Personal Data Protection

4.1 The Value Endpoint of Public Disclosure of Judicial Documents—Judicial Fairness

The function of judicial openness lies in realizing the procedural value of substantive justice. Blindfolded justice, from the perspective of the general public outside of litigation, can be subject to various speculations and interpretations. Misunderstandings stemming from lack of knowledge are

clearly detrimental to the establishment of judicial credibility. When the entire litigation process is fully exposed to the public, the public's understanding of the judiciary becomes increasingly comprehensive. Especially when all levels of people's courts across the nation achieve judicial transparency, a grand and vivid tapestry of the judiciary unfolds before the public. Insights into the bigger picture and attention to detail are both realized in the open judiciary of these courts. Justice needs to be realized in every single case, but this justice must also maximize its societal value. The judicial education and legal propaganda embedded in it are evident. Modern state construction also calls for judicial transparency and considers it a crucial aspect of shaping the national image of judicial integrity. Public disclosure of judicial documents, as the vanguard and forefront of judicial transparency, is related to its written nature. More importantly, these documents record the disputed facts of litigation and the judicial opinions. As a reflection of the judge's adjudicative results on a particular dispute, these documents showcase the legal literacy and adjudicative capabilities of the handling personnel. Naturally, public disclosure becomes a vital medium for promoting and realizing the value of fairness and justice, demonstrating to the public and other countries and regions the significant progress of China's rule of law.

4.2 The Conflict between Public Disclosure of Judicial Documents and Personal Data Protection—A Value Tug-of-War

As the adjudication process draws to a close with the drafting and delivery of judicial documents, the disputes between litigants also get settled as the judicial documents take effect. Given that the litigants have fully participated in the litigation process and received the judicial documents, disclosing these effective documents to society targets not the litigants but the general public. At this point, the judicial documents are likely subjected to public commentary and oversight. Since the people's courts do not restrict litigants from publishing their litigation-related judicial documents online, as long as they don't infringe upon others' rights, litigants can express their opinions and discontent with controversial judicial documents using media and public opinion. Thus, for litigants, public disclosure of judicial documents no longer holds much substantive value. The key considerations then become whether disclosing judicial documents for the sake of judicial transparency compromises the personal privacy of litigants. Should public disclosure of judicial documents be contingent upon litigants' consent? Beyond the litigants, the question also arises whether it's necessary to include the specific names of judicial personnel in these public documents. Pushing these workers into the public eye or even into the whirlpool of certain public opinion incidents must be critically evaluated for its rationality.

4.3 The Root of the Conflict between Public Disclosure of Judicial Documents and Personal Data Protection—Overlooking Diverse Stakeholders

Judicial documents, being the crucial outcomes of the litigation process, are unquestionably significant. However, the issue at the outset is that judicial transparency is not only regarded by the courts as an essential norm for judicial activities but also characterized as a judicial power. Whether rooted in China's tradition of the "Yamen" overseeing and managing the common people or integrated with the litigation model led by courts in civil law countries, courts in China always play a dominant role. The ethos of court-centricism envelops litigants into the judicial transparency process. Taking civil litigation as an example, litigants, who should be the primary actors, become a part of the judiciary's operations in the realm of judicial transparency. Along with the judicial adjudication process, they are transformed into public judicial resources to be presented to the public. The subordinate status of litigants in the context of judicial transparency means they have no say over the public disclosure of judicial documents.

Though in practice, there are instances where litigants request the withdrawal of already publicized judicial documents or challenge non-public authority data analysis platforms updating their litigation process in real-time. The former is infeasible for courts due to existing regulations and operational norms, while the latter can't be controlled by courts as they can't regulate private entities fragmenting, compiling, and publishing the disclosed judicial data. While the public disclosure of judicial documents undoubtedly meets the participation rights, right to know, and supervision rights needs of litigants and the general public, overlooking the intentions of litigation participants and neglecting the protection of judicial personnel doesn't entirely translate to judicial credibility. On the contrary, it might irreversibly harm some stakeholders by leaking personal information and infringing on privacy.

Currently, documents issued by the Supreme Court indicate that personal information in judicial documents generally includes: (1) basic information of the parties involved; (2) account information; (3) private information; and (4) social relationship information.^[3]

5. Balancing: Perfecting the Relationship between Public Disclosure of Judicial Documents and Personal Data Protection

Currently, the public disclosure of judicial documents hasn't been integrated with industries like finance, and even within the judiciary, aside from the mandatory implementation of judgment items, there's no linkage or integrated consolidation of effective judicial documents with other agencies. Therefore, the viewpoint that retains personal information in publicly disclosed judicial documents for targeted purposes, to promote the construction of a credibility system, lacks a solid footing. When the existing system design doesn't require every case's judicial document to be specific in nature, from the perspective of maximizing the protection of citizens' personal information and privacy, personal information should not be retained in publicly disclosed judicial documents. If the disclosure of personal information in judicial documents doesn't serve the public interest, then its retention in these documents seems inconsequential.

There's a perspective that disclosing personal information in judicial documents provides the general public and organizations with litigation activities and dispute information about transaction subjects, thereby helping them avoid high-risk collaborations with entities with low credibility. While the judicious use of judicial document searches can certainly provide private entities and even public authorities with tangible litigation data support, the value generated from such private entity queries cannot be equated with the value of protecting every litigant's personal information and privacy. Not to mention, some private entities may unscrupulously use the publicly disclosed judicial document information for their benefit. When there's no clear way to mitigate the repercussions of disclosing personal information in publicly available judicial documents, anonymizing these documents becomes both necessary and crucial.

6. Balancing: Perfecting the Relationship between Public Disclosure of Judicial Documents and Personal Data Protection^[4]

6.1 Determining the Boundary of Personal Information Protection in Public Disclosure of Judicial Documents

To determine the protection boundaries of personal information and privacy, several principles can be analyzed:

1) **Principle of Prioritizing Personal Rights:** The functional direction of judicial transparency is relatively singular, whereas the protection of a citizen's personal information and privacy pertains to various individual rights. Judicial transparency ensures the interests of an indeterminate majority,

representing a public good, whereas the protection of citizen's personal information and privacy caters to the individual, representing the private subject's dignity and freedom. Thus, prioritizing public interest over individual rights isn't justifiable in this context. Especially in civil litigation, parties' disputes are relative in nature, and their personal information and privacy should be respected.

2) **Proportional Principle:** Public disclosure of judicial documents touches on the public interest in judicial transparency and the personal information and privacy rights of parties and judicial personnel. Given the immense value derived from personal information in modern society, disclosing more personal information in judicial documents holds public management value for the government. Both public authorities and private entities expect more personal data from these documents. However, the public value of disclosing personal data in judicial documents currently cannot overshadow the rights and dignities of the vast number of litigants and judicial personnel.^[5]

3) **Principle of Due Process:** This principle dictates that citizens should not be deprived of life, freedom, or property without a fair process. When public interests demand restrictions on individual rights, both formal and substantive requirements should be met, ensuring a legal basis and necessity for the interest. Courts should involve directly related parties when publicizing judicial documents, including preliminary rights and obligations notifications, in-process statements and defenses, and post-process rights remedies. Only with due process can the disclosure of judicial documents meet requirements of legitimacy and appropriateness.

6.2 Anonymization Mechanism in Public Disclosure of Judicial Documents

The premise for the anonymization process in the public disclosure of judicial documents is to define the scope of protection. Given the real-time variability and non-quantifiability of personal information and privacy, information can be categorized, and data closely related to the privacy of litigants and judicial personnel can be anonymized.

- For **personal information**, this can be divided into general personal information and specific personal information.

- *General information* includes gender, age, and ethnicity.

- *Specific information* consists of names, national identity numbers, domiciles, addresses, job positions, family relationships, contact numbers, etc. For specific personal data, due to its direct object-oriented nature, it should be anonymized.

- Concerning **personal privacy**, this can be split into private information and private domains.

- *Private information* overlaps with the above-mentioned personal data but also encompasses bank account details, educational background, and work promotions.

- *Private domains* in litigation mainly manifest as the location of incidents, property acquisition sites, personal trajectories, and personal assets.

For the likes of corporations, non-corporate entities, and social organizations, the anonymity process is a bit different. While business entities are active participants in social life and often involve substantial economic interests, to reduce trust costs and transaction risks among entities, the full names of enterprises should be retained. However, any business secret that might adversely affect its operation should be protected.

As for judicial personnel, their names can be presented in forms such as "Judge Zhang" or even using code names, instead of publicly revealing their full names. Once the specifics of what to anonymize are determined, modern computer technology and data analysis should be leveraged. By developing a data processing system, one can automatically identify specific personal information or private domains and replace or delete them according to preset anonymization procedures. In an era driven by information technology, the protection of information should certainly be equipped

with equivalent protective tools and thought processes.

7. Conclusion

Indeed, the public disclosure of judicial documents offers an invaluable case repository for legal education, academic research, and the advancement of judicial practice. Moreover, it provides the broader community with an extensive collection of conflict resolution cases and guidelines for risk prevention. Proper analysis and utilization can significantly assist individuals in circumventing potential disputes in social life, reducing risks, and safeguarding rights and interests. The judiciary's functional value in public disclosure has not been thoroughly explored, and the ramifications of such disclosures on individuals' rights and duties, as well as subsequent data repurposing and dissemination, warrant attention. Setting clear targets and standards for anonymization, standardizing the protection of personal information and privacy in public judicial documents, and continuously seeking a balance between individual rights and societal welfare in response to the evolving demands of society and its citizens, are imperative. Only by safeguarding against potential risks of judicial disclosure can we truly achieve the original intention behind such transparency.

References

- [1] Zhang Xinbao. "From Privacy to Personal Information: A Reevaluation of Interests in Theory and Institutional Arrangements." *China Law Science*, 2015(3).
- [2] Alita L. Allen, Richard Lunn, and Lito Crinton. "American Privacy Rights: Doctrine, Cases, and Legislation". Translated by Feng Jianmei et al. *China Democracy and Legal System Publishing House*, 2004, p. 17.
- [3] Wang Yu. "Research on the Protection of Personal Information in the Online Publication of Judicial Documents". *Jiangsu Normal University*, 2019.
- [4] Division of Supreme People's Court. *Foreign Experiences in the Public Disclosure of Judicial Documents*. *People's Court Daily*, November 22, 2013, 5th edition.
- [5] Liu Xiaopeng. "The Conflict and Balance between Live Streaming of Court Trials and the Protection of the Privacy Rights of the Parties". *Legal Science (Journal of Northwest University of Political Science and Law)*, 2015(33).