

# Research on data governance path from the perspective of balance between personal information protection and utilization

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**Abstract:** In the era of rapid development of information technology, data, as a resource, not only brings great changes to the society's lifestyle, but also brings various problems, especially the protection of personal information. Based on the thinking of data governance, this study discusses the data governance in the protection of personal privacy information in the era of big data under the framework of technology and law. On the basis of comparing and analyzing the current situation of personal information protection in Europe, America and China, aiming at many factors that may lead to personal privacy information leakage in data use and management and the phenomenon of privacy leakage in the process of personal information use, this paper puts forward the data governance path in personal privacy information protection from the perspective of balance.

## 1. Introduction

With the continuous and in-depth development of big data and mobile networks, the protection of personal information and important data is facing new challenges. In the process of information inquiry, data download, online shopping and online payment by using the network and mobile terminals, users are prone to many problems such as personal data disclosure and privacy exposure, resulting in the failure to effectively protect their personal information rights and interests[1]. As a basic and strategic resource, data has become a new driving force and engine for the innovation and development of digital economy and smart government. With the development of the times, the connotation and extension of data are constantly enriched and improved[2]. The improper or illegal use of data has brought about many social problems such as data leakage, personal privacy violation, information security threat, etc., which have broken the inherent balance of data use and set off a new debate on information use and privacy protection in the whole society[3]. Therefore, for the protection of personal information, people demand to strengthen the right of personal active control[4]. Strengthening the protection of citizens' personal information has become an important topic in today's era. China's legal circles have made some achievements in the research on the legal protection of personal information, but generally speaking, the research in this field is still relatively weak. Therefore, in the era of big data, we should explore a new path in data governance and personal information protection from a balanced perspective[5-6].

## 2. Current situation of personal information protection

### 2.1. Extraterritorial and domestic status quo

At present, the voice of Chinese Internet users for personal data protection legislation is growing. According to China's first survey report on Internet users' satisfaction with network security in 2018, netizens' satisfaction with the current network personal information protection situation is low, nearly 50% of netizens think it is not good, and one quarter of netizens think it is very bad. In fact, the issue of network security has always been the focus of the relevant government departments. The concept of personal information protection in the United States arose with the rise of computer technology in the 1960s. The computer not only has a significantly faster speed of collecting information than manual work, but also has become more convenient in storing data and searching. American law has been developing the theory of the right to privacy, which has promoted the

theory of the right to privacy from traditional to modern. In the modern sense, the theory of the right to privacy is based on the traditional theory of the right to privacy, which increases the right of active control of individuals and better protects personal information. The reason for the development of the theory of the right of privacy from traditional to modern is mainly due to the increasingly difficult protection of personal information by the traditional theory of the right of privacy[7]. The legislation of the European Union focuses on strengthening the rights of data subjects, adding new regulations such as the right to be forgotten and the right to carry data. At the same time, it also adds some obligations to data controllers, such as data disclosure notification, appointment of data protection officials, and privacy impact assessment. In addition to the addition of rights and obligations, the existing punishment has been strengthened, and the corresponding prosecution mechanism has been strengthened. The highlight of this regulation is that it advocates privacy risk assessment based on specific scenarios. According to specific scenarios, privacy risk assessment can be set at three levels: high, medium and low, and different levels should have different procedures when processing data[8]. However, this regulation actually further strengthens the framework of informed consent, and raises the formal requirements of user consent.

## 2.2. Status quo of personal information protection legislation

Under the background that data governance capability has increasingly become a restrictive factor for industry development, legislation should comply with the current needs, cover personal information and data, and form a three-dimensional, multi-level and highly compatible legal protection system. The core mechanism of this legal protection system is to integrate personal information and data protection from the perspective of data governance, so as to achieve the goal of not only fully and completely protecting the public's personal privacy, but also providing the public with information convenience in the era of big data to the maximum extent[9]. The current research on the legislative protection of personal information and important data in China mainly uses the concept of personal information. Most legal provisions do not distinguish personal information from personal data, and rarely mention the protection of personal important data. At present, the personal information protection legislation in China still faces the dilemma as shown in Figure 1.

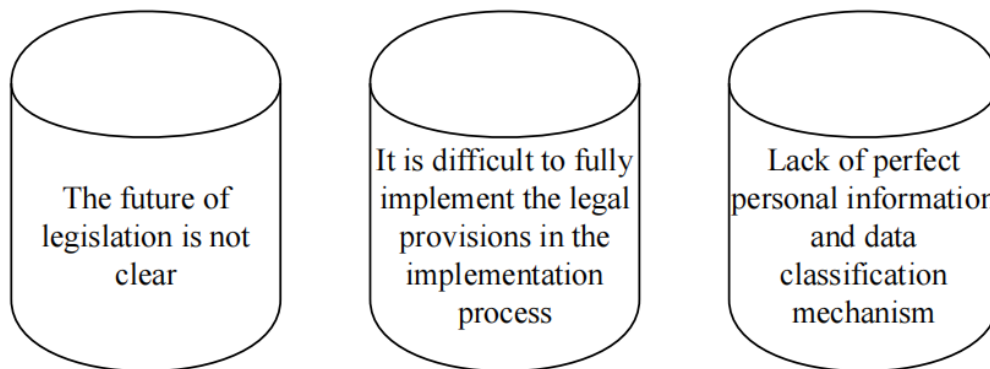


Figure 1 Dilemma faced by legislation of personal information protection law

In fact, most of the laws and regulations formulated by us are not regarded as laws and do not play the role that laws should play. The primary reason is that "legislation violates science, or there are problems in legislative technology, which makes it impossible or difficult to implement laws". China's formulation of the personal information protection law cannot be separated from the large institutional background. It is necessary to absorb nutrients from the basic experience of China's reform and opening up and the general trend of global administrative reform, so as to avoid or avoid detours. In the era of big data, due to the characteristics of the data itself, the information controller has strong utilization incentives and lacks the same level of protection incentives. If the legal rules can not be guided according to the situation, but simply impose a variety of prohibitive or mandatory provisions, it is bound to affect the effective implementation due to the incompatibility of incentives[10].

Different from the legal path of personal information protection in the European Union and the United States, the difference between the two models is objective and obvious. However, comparing the laws of personal information protection in Europe and America in China in the past, there is a general lack of research on the actual operation and commonness of the two models, and there is a simple phenomenon of promoting the United States and restraining Europe.

In fact, the balance between the development of big data and the protection of personal information is one of the biggest challenges of this era. The European Union and the United States are facing their own problems, and it is difficult to say that they have found a perfect solution. The most important thing for late developing countries is to explore the successful way of personal data governance from the experience and lessons of Europe and the United States. To explore the way of personal data governance in China, we must go beyond the comparison of simple legal norms between the two models in Europe and America. We should not only see the differences between the two models, but also learn useful experiences from the two models. Only in this way can we learn from others' strong points and find a legal path for personal information protection that conforms to China's national conditions.

### 3. Data governance path in personal privacy information protection

Personal information is the evidence and expression of an individual's existence in modern society, and personal privacy information is the part of personal information that is unwilling and unfavorable to inform others. Since the right to privacy was put forward, the discussion on the use, protection and management of private information has never stopped. What kind of privacy data can be publicly accessed or further mined on the premise of improving social service efficiency and promoting national governance has always been the focus of the game between the disclosure and protection of personal privacy information. Cultivating the internal governance mechanism of information controllers and building effective external law enforcement deterrence are only the one-dimensional relationship between information controllers and managers, which belongs to the system construction of supervision category. To realize the coordinated development between the use of big data and the protection of personal information, the information subject and the exercise of its rights must not be omitted, which involves the multidimensional governance structure among the information subject, information controller and manager. As shown in Figure 2.

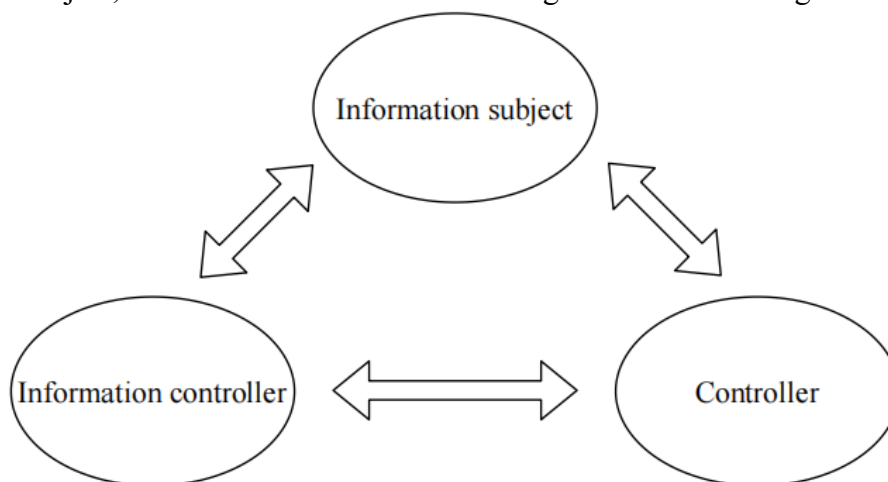


Figure 2 Multidimensional governance structure

Therefore, on the basis of various legislations in recent years, the personal information protection law should draw lessons from the successful experience of the international community, including the experience of the United States and the European Union, take the comprehensive construction of the personal data governance system as the principle, and take the prevention of personal information security risks as the goal, clearly introduce the concept of personal information control in the sense of public law, and carry out the process of collection, use, transfer, storage,

cross-border transmission, destruction, inquiry. The whole process of personal information processing, such as correction, clarifies the rights of the information subject, such as the right to know, the right to consent, the right to choose, the right to change, the right to delete, and the right to withdraw, so that the information subject can truly participate in the protection of personal information.

Therefore, in the protection of personal privacy information, the particularity of data use and protection should be taken into account, and comprehensive consideration should be made from the perspective of balance.

(1) There are methods for data protection.

First, hierarchical data access; Second, data forwarding and filtering; Third, data desensitization.

(2) Data use is balanced.

From the legal perspective, citizens enjoy rights according to law, which is the basic legal guarantee that the Constitution gives every natural person to exist in society. The legal provisions on the protection and restriction of privacy rights essentially reflect the mutual cooperation between personal interests and public interests. Protecting citizens' private information from personal or property threats is to safeguard their own personal interests. From a realistic perspective, the right to privacy is always accompanied by legal restrictions in the process of exercising it according to law. First of all, if the right to privacy is exercised beyond the limited scope, it will lose its legal protection. Secondly, the legal restriction of the right to privacy is to better exercise the right to privacy.

#### **4. Conclusions**

Under the background of accelerating the development of big data industry and mobile Internet in China, building a reasonable and effective personal information and data legislation mechanism is an effective guarantee to promote the healthy development of society. Discussing personal information and data legislation from the perspective of data governance can avoid causing excessive infringement of technology on the natural "person" as the right subject. Big data is one of the important forces driving the technological revolution. It is valued because of its data value. At the same time, with the support of powerful algorithms and computing power, the use of multi-source fusion data burst out with amazing potential, but also brought new emphasis and difficulties to data governance. From the perspective of national governance modernization, there is still room for further optimization on the balance between personal interests and public interests in the protection of private information, and the demarcation between the protection of personal privacy information and public behavior, which requires joint thinking and research from all walks of life. This paper combines the personal information protection methods in Europe and the United States, combined with China's national conditions, and based on a balanced perspective, proposes the choice of data governance path for China's personal information protection.

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