

# Thoughts on Civil Law Protection of Personal Data in the Big Data Era

**Mei Meng**

*Hunan Labor and Human Resources Vocational College, Changsha Hunan, China*

**ABSTRACT.** *The innovation and promotion of big data have promoted the work content in various fields to gradually move closer to intelligence and electronics, and also increased the danger of personal data. In this regard, the article based on the characteristics of personal data in the era of big data, discusses the existing issues of civil law protection of personal data, so as to formulate this civil law protection scheme and optimize the personal data civil law protection mechanism for reference.*

**KEYWORDS:** *Big data, Personal data, Civil law protection, Issues*

## 1. Introduction

With the advent of the digital age, both human living habits and work patterns have changed significantly from the past. While people appreciate the convenience of science and technology, they also endure the problems and difficulties brought by big data. At this stage, with regard to personal data storage technologies, the effects have not reached the expected standards, and most people's information resources have been leaked and sold. Based on this, people pay more and more attention to the protection of personal data, and the construction of sound civil law content and mechanisms is the key to ensuring that data information is not leaked.

## 2. Analysis of the Characteristics of Personal Data in the Era of Big Data

### 2.1 Clear Main Body

Personal data is known from the name as information data related to natural persons. Considering from the perspective of civil law, organizations and legal persons excluding natural person are not the subject of personal data. In other words, personal data is very specific and does not conflict with the public interest, and laws and regulations protect data from disclosure.

### 2.2 Scope Expansion

Taking personal data as an example, it mainly involves the basic information such as name, date of birth, gender, body type, fingerprint, blood type, height and weight, etc. It also mentions personal origin, what occupation, family address, education, telephone, marriage, income, credit and other property information.

### 2.3 Obvious Economic Value

Affected by the big data environment, different types of software have been combined with the Internet, resulting in a highly integrated battlefield. Horizontal and vertical associations in other industries have comprehensively enhanced the commercial significance of personal data. Through analysis, we know that personal data can fully show the subject's consumption level, consumption direction and consumption concept. If the personal data is stolen, it will seriously damage the subject's effectiveness.

### 2.4 Increase the Difficulty of Guarantee

In the context of the era of big data, the rising trend of personal data has significantly improved compared

with previous years. Information is in a structured and unstructured form. From the simple way in the past, it has gradually moved towards the direction of diversification and tediousness. However, due to the impact of this form, the laws and regulations on civil law protection and the backward policies are serious, and the contradictions are prominent, making it difficult to guarantee the security of personal data <sup>[1]</sup>.

### **3. Civil Law Protection of Personal Data in the Era of Big Data**

#### ***3.1 The Theoretical Foundation is Not Solid***

From the perspective of the personal data protection law, the most primitive theoretical basis is the establishment and protection of the rights and interests of the masses by the *Constitution*. However, the form of protection is based on the *constitution*, which cannot directly show the value of personal data protection law, and cannot guarantee that personal data is protected by law. In addition, some scholars believe that personality rights and property rights are important components of personal data. At that time, the domestic civil law protection system did not specifically analyze and consider this right, so personal data cannot be protected from harm at the source. On the other hand, in terms of decentralized laws, the content mainly determines that personal data belongs to personal secrets and privacy. Therefore, it attaches great importance to the protection of personality rights, reputation restoration, cessation of infringement, and removal of impact. In other words, civil law does not pay attention to protecting the property rights of personal data, prompting frequent exposure and occupation of personal information, and it is difficult to obtain economic compensation with the help of civil law.

#### ***3.2 Incomplete Civil Law System***

So far, in the existing civil laws and regulations, the number of documents and laws for personal data protection is relatively small, and the scope of its management specifications is relatively small, which cannot effectively implement the consistency and practicality of personal data protection. In addition, some regulations on personal data protection laws are more confusing, and a protection system cannot be established in the content of the civil law of the designated department. At the same time, the personal data protection structure in government regulations is not complete and lacks independence. Affected by this condition, if the personal data of a natural person is accidentally leaked and sold, the data subject cannot receive legal support and it is difficult to protect personal personality rights and property rights. However, the laws and regulations do not restrict the lawbreakers. They violate the nature of the development of things and become more arrogant to seek high-value economy through personal data.

#### ***3.3 Lack of Awareness of Protection***

Based on the traditional ideological time domain, most people attach great importance to national and collective interests and ignore the development of personal interests. As a result, the judicial field has always implemented the concept of “heavy punishment and neglect of the people”, so it has seriously ignored the civil law system. Build and optimize. The corresponding point is <sup>[2]</sup> that if personal data is forced to encounter security threats, combined with existing laws and regulations, it will start from the perspective of punishment and prevention, increase criminal punishment and administrative management, so the objective level will push forward personal data protection legislation Marginalization. On this basis, even if the appropriation of personal data has been classified as a criminal act, and the infringer will be subject to administrative and criminal penalties, the property rights of the personal data subject cannot be compensated, and the protection of personal data in the Civil Law Regulations will eventually become a decoration.

#### ***3.4 Poor Operability***

In-depth study and discussion of the existing provisions of personal data protection in civil law, usually divided into the normative content of post supervision, generally summarized as collection, processing, personal data application protection regulations are not perfect. At the same time, from the perspective of the preventive legal system, the value of civil law protection cannot be fully revealed because of the lack of integrity, so the operability of personal data protection is not strong. In addition, taking the personal data protection law as an example, it is manifested in a “prohibited” way, requiring organizations that rely on personal data to shoulder information confidentiality obligations, but it is not clear what kind of legal liability they will bear if they violate a law, Personal data subjects lack the strength of legal protection. Combined with the current civil law protection

regulations, its procedures are not rigorous, and it is manifested in the level of personal data security protection filing standards, reasons and burden of proof, resulting in the civil law protection process of personal data cannot be carried out in an orderly manner.

#### **4. Develop a Civil Data Protection Plan for Personal Data**

##### ***4.1 Clear Theoretical Basis***

The prerequisite of civil law is to protect the legitimate rights and interests of citizens from external factors, and to ensure that the victim groups enjoy certain economic compensation. In other words, if the victim does not enjoy the protection of property rights and personality rights, then the value of civil law cannot be fully realized. Therefore, in order to ensure that personal data is not damaged, it is necessary to clarify the theoretical principles of civil law protection. Personal data is a special right of natural persons, which should be approved by the state and the government, and finally adjust and repair the legal essence of personal data protection in civil law.

Affected by the big data environment, the promotion and innovation of the Internet has created a fictional world. The general public is very concerned about the protection of personal data. Due to the characteristics of personal data, it cannot be maintained with the help of privacy protection laws. Therefore, if the civil law reflects the autonomy of personal data protection, as the further advancement of the Internet, it will greatly increase the difficulty of protection. Therefore, the legislature should try to identify and establish the right to personal data. The main reason is to clarify the rights and interests of personal data, so that civil law can better protect personal data, protect its legal rights and interests from damage, and fully reflect the value of civil law.

##### ***4.2 Establish a Protection System***

According to the previous content, the personality right of personal data is extremely obvious. Personality right not only represents popular speech, but also enriches and adjusts its meaning and scope. In addition, the property right attribute is another characteristic of personal data. This characteristic is closely related to social attributes. The two complement each other and are an inevitable factor in promoting the development of human civilization. So far, the content of civil law has established a protection system to increase the protection of personal data's personality rights. Based on this, civil law should pay more attention to the protection of personal data's property rights and make it a mainstream trend, in line with natural standards for protecting personal data.

In shorts, it is to ensure that personal data and personal rights and property rights are not harmed, to avoid harm from a legal perspective, and to build a complete personal data protection system: on the one hand, taking the protection of personal rights as an example, its content mainly has ownership and decision rights, The right to dominate, and in addition to the right to portrait, reputation, name, personality, specifically confirm the scope of rights and legal responsibilities. On the other hand, from the perspective of property rights analysis, carefully measure the subject's property rights by legal means, and confirm the scope and conditions of the infringer's compensation according to the quantitative results, so as to protect the security of personal data in all aspects.

##### ***4.3 Deepening Protection Awareness***

The so-called protection consciousness is mainly targeted at personal data. To achieve good habits in the true sense, it is necessary to establish correct information and data protection consciousness, to avoid large-scale leakage of personal information, and to do a good job of personal property rights and effective maintenance of personality rights. Taking the leakage or theft of personal data and information as an example, a large part of the occurrence of such cases is due to the lack of personal awareness of the protection of their own data and information, and the failure to truly understand the importance of the source of personal data. Data is exposed to the public for a long time. Therefore, on the basis of the completion and improvement of the protection mechanism for personal data related to civil law, we must also increase the confidentiality of personal information sources, and extend laws and regulations and related management to the whole process of data generation, processing, collection and utilization process. The related illegal acts or persons shall be investigated for legal liability, and they shall be managed and punished from the perspective of administration and exercise<sup>[3]</sup>. In addition, through effective combination with the actual situation of the case, the property rights of the personal data subject should be quantified and the victims should be compensated in an economic form. The implementation of this processing method can not only promote the personal data subject to the source of information The overall awareness of protection has been raised, and to a certain extent, it is possible to

effectively punish relevant perpetrators of violations of the law, form a comprehensive maintenance of personal data security, and ensure the full application of the value of civil law.

## 5. Conclusion

To sum up, with the advent of the era of big data, the uniqueness of personal data is becoming more and more obvious, prompting the work content in various fields to gradually move closer to being intelligent and electronic. In order to comprehensively improve the security of personal data, it is necessary to optimize and adjust the content of civil law. Under this premise, the civil law protection of personal data has a clear theoretical foundation, a protection system, a deeper protection consciousness, enhanced operability, and far-reaching significance in addressing personal data security issues at this stage. In this regard, in order to deal with the common problems of civil law protection of existing personal data as soon as possible, the above methods can be applied to the level of data protection and legal construction.

## References

- [1] Zhang Jingyi (2019). Thinking on Data Privacy Protection System in the Big Data Era [J]. Digital World, no.1, pp.176-177.
- [2] Li Jian (2019). Talking about the Legal Protection of Personal Information and Privacy in the Big Data Era [J]. Legal Expo, no.19, pp.200-201.
- [3] Qi Xiaona, Zhang Yujing, Zang Lina (2018). Research on Personal Data Protection in the Big Data Era [J]. Wireless Internet Technology, no.13, pp.26-28.