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## The role of private law in protecting privacy and personal data in the digital age

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### Abstract

This study explores the role of private law in protecting privacy and personal data within the digital age. Rapid advances in social media and technology have reshaped the boundaries of physical privacy, exposing personal data to potential misuse. This research highlights the significance of legal frameworks in protecting personal data, examining laws from Iraq, Egypt, and other regions, and emphasizing the need for comprehensive legislation to safeguard personal data privacy. Through a descriptive-analytical and comparative approach, the study analyzes legal obligations and protective measures imposed on data processors, addressing privacy risks, data misuse, and legislative gaps in protecting sensitive information.

**Keywords:** Privacy, personal data, digital age, private law

### Introduction

The vast development of various social media has caused changes in the concept of physical privacy that people enjoy. An individual's personal data is no longer treated with the traditional concept. Still, in the face of this development, more and more individuals use their personal data in various forms and manners, which are used to access personal accounts, whether for sales, purchases, or otherwise, which has led to the fact that although this is in Arabic, the legislature has not given sufficient attention compared to other laws, in terms of drafting regulations to protect the privacy of personal data, there are some specialized laws that attempt to provide legal protection for personal data transmitted through social networks, so, God willing, I will discuss this issue in my article. Research, Statement on the Role of Private Law in the Protection of Privacy and Personal Data in the Digital Age, I ask the Almighty God to guide me towards righteousness and righteousness.

### Importance of research

The significance of my research is that the growth of social media, which has become integral to its use, has given rise to a type of non-physical attack that is carried out through the collection and disclosure of personal data of social media users. Data or in any way causing damage to its owner, it is, therefore, necessary to emphasize the role of specific legislation in protecting the privacy of the personal data of natural persons and combating the confidentiality of the personal data of natural persons.

### The problem of research

Since an individual's data is of great importance and any attack or infringement of personal data, while not constituting a personal attack, is, in fact, an attack that harms the individual, special legislation, whether foreign or Arab, should combat the infringement of personal data. Any attack, especially given the growth of the digital age and social media.

### Research problem

Based on the research questions, we ask the following key questions:

What role do special laws play in protecting personal data privacy in the digital age?

The following main problem arises from several sub-problems as follows:

1. What does personal data mean?
2. How many categories of personal data are protected by law?
3. What are the potential risks of ignoring personal data privacy?

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### Research Methodology

During my research, I grew tired of descriptive-analytical approaches by explaining what personal data means and its associated risks. To describe the place of private law in the research topic, I adopted a comparative approach to introduce how some legislation compares with others.

### Research Plan

I divided my research into two main chapters and several sub-chapters as follows:

#### The first topic is the definition of personal data and the scope of protection.

The first requirement is the identification of personal data.

Second requirement: Characterization of personal data.

Third requirement: Risks to personal data.

#### The second topic: Image for legal protection of personal data.

First requirement: Obligations of the processor.

The second requirement is protective law in man-made law.

**Section 1:** Iraqi Law.

**Section 2:** Comparative Legislation in Egyptian Law.

#### The first topic

##### Scope of identification and protection of personal data

##### First Requirement

##### Definition of personal data

Personal data varies from field to field, as the term is used in paper, electronic, communication media, and social networks.

In this day and age, personal data is not limited to traditional data but also includes image and name data and other innovations in user personal data in social media.

To define what personal data is, it is necessary to refer to its types, as they have been expanded to include:

- 1) **Personal data:** Defined as “data in any form that identifies a natural person and whether the electronic processing is carried out by a natural person or a legal person,” including personal data (first name, surname, date of birth, nationality, marital status), identity, blood type, voice, picture, fingerprint, religion, place of residence <sup>[1]</sup>.
- 2) **Sensitive personal data:** This refers to the subset of data generated from personal data designed to reveal information about individual beliefs, personal beliefs and opinions, political, racial, and religious beliefs, physical and mental health, and genetic data <sup>[2]</sup>. It extends to civil offenses, litigation, and other private matters, as well as the disclosure or misuse of which would cause personal harm and require special protection of the person concerned.
- 3) **Personal Number:** This refers to a number that belongs to a specific individual, such as B. Phone number, email number, country number, house number, computer address, and other numbers that the person associates with their account.

- 4) **Financial Reports:** These data include the financial balances of a person with financial income, such as debt levels, bank balances, credit card accounts, and bank accounts.
- 5) **Health Data:** This is information relating to an individual and themselves, whether professional or health-related, for example, the individual's professional or health history or health and psychological reports about the individual <sup>[3]</sup>.

These are images of personal data; in general, they refer to all data and information relating to an individual, whether related to his or her personal or social life or profession. Therefore, the protection of personal data is the right of everyone in society. Laws and regulations punish the disclosure of personal secrets or the misuse of personal data. The right to personal data protection is a human right enshrined in international and regional conventions and national laws.

### Second Requirement

#### Personal data privacy

The particularity of language arises from (private) imperatives as opposed to generality.

As far as terminology is concerned, the concept of privacy is flexible and varies and evolves from one society to another, depending on the customs and morals prevailing in the society and on the specific circumstances of each individual, with reference to jurisprudence. In defining the concept of privacy, we see that some people treat it in a generally descriptive way.

Others, in defining it, focus on the internal elements of this restricted scope and on one of the comprehensive definitions of the concept of privacy developed by the American Law Institute, which reads as follows:

“Anyone who seriously and unjustifiably infringes the right of others to have their affairs and circumstances informed to others and to have their Image publishers must hold attackers accountable.”

There are many different types and concepts associated with the human right to privacy, including:

- **Data protection:** These rules for collecting, processing, and managing private data, such as B. ID card information.
- Communication confidentiality refers to the secrecy of telephone communications, emails, and mobile phone communications.
- Regional privacy refers to the rules regulating their access to public places and working environments, including inspections, electronic monitoring, ID card authentication, and personal data <sup>[4]</sup>.

### The third requirement

#### Risks to personal data

Although the knowledge revolution, the availability of information technology, and massive global information networks bring many advantages, they also have disadvantages and harmful aspects regarding personal data.

<sup>1</sup> \_ The Right to Protect Personal Data under the Constitution of Iraq (2005), Shamim Mezher Radi, Imam Jaafar Al-Sadiq Magazine, Fourth Issue, 2022, p. 152.

<sup>2</sup> Legal protection of personal data in the era of digital technology, Heba Ramadan Ragab, Journal of Legal and Economic Challenges and Prospects with Artificial Intelligence, (DT), p. 424.

<sup>3</sup> The right to protect personal data under the Constitution of Iraq (2005), previous reference, p. 153.

<sup>4</sup> The challenges of the digital age in the face of plans to protect the right to privacy, Rashida Booker, Journal of Human Rights and Public Freedoms, Volume 7, Issue 2, 2022, p. 70.

This is because these networks collect personal data about individuals without their knowledge or consent, especially since the data subject's consent to the data is so crucial that legislators must include it in their texts as it is a human right in His correct behavioral data.

### These risks to personal data include

1. Abuse of computers, as computers can process large amounts of personal data through storage or retrieval, especially in large private companies, government agencies, social welfare agencies, and institutions, making it easy for them to use the information in other ways. Unlawfully transmitted by any means through fraud, theft, plagiarism, or theft, whether for financial or non-financial gain, such as burglary and collecting information about others.
2. It is possible to collect this personal data from someone's network and commit plagiarism, fraud, theft, or extortion through virus programs (cookies or hackers) [5].

### These risks can also be divided into four main types

#### Risks related to personal data collection

This involves collecting personal data about an individual and its subsequent inclusion in an information card, whether paper or electronic.

These operations use modern technologies used by social networks to collect information without people's knowledge, such as B. Cookies used by large commercial companies to promote their products and services; this information collected on most social media is exposed to hacker Attacks, impersonation of others and the risk of these persons committing illegal acts [6].

#### Risks associated with the use and processing of personal data

This includes, for example, the processing of sensitive personal data and its use in the field of scientific research, such as information related to genetic research, as well as for statistical purposes, where the data is used against certain persons with a criminal background and results in breaches of these persons' privacy, determine their health status and predict their criminal behavior.

Subsequent processing of this data risks dangerous use of this information to achieve illicit objectives or obscure the beneficiary's objectives [7].

#### Risks arising from the electronification of personal data

The informatization of personal data is defined as: "Information technologies whose application is characterized by the adaptation of their operations based on the data collected." for example, a store taking into account previous purchases to promote products and introduce other products that are most suitable for us.

This system makes hacking and electronic espionage easier, and communication networks can no longer ensure the

absolute security and confidentiality of individual's personal information on these platforms and websites.

#### Risks related to Internet data flows

This poses a danger to the cross-border flow of personal data between countries, which brings the potential for data to be shared with internal and external parties and leads to data breaches, especially in countries that do not provide high levels of data protection. However, this is not the case, leading some countries to ban sharing personal data across borders.

#### Risks associated with the use of data in direct marketing

Today, personal data has material value, reflected in the popular trading of personal data by banks, mobile phone companies, public marketing, and commerce between these networks [8].

### The second topic

#### Forms of legal protection of personal data privacy

One of the primary forms of personal protection provided for in many pieces of legislation is the numerous obligations imposed on persons responsible for the processing of personal data to maintain the confidentiality of that information and not to disclose or disclose that information as well as the processing of personal data. French law defines it as "one or more data processing operations substituted by personal data, regardless of the means used, including the collection, recording, organization, storage, modification, modification, consultation or verification of those data." By Send or otherwise publish and their coordination to bring them closer together" [9].

As for the definition of treatment in Arab legislation, we note that the Iraqi Legislature defines it as follows:

Based on these definitions, it is clear that the legislation does not limit the definition of personal data processing to specific types of data collection but instead includes all files; neither does it mean that these files are available to all users if the owner of these data is Collection and use are at odds [10].

### Section I

#### Processor's obligations

##### First: Commitment to protect users' personal information

Given an individual's use of modern digital technologies, all personal data are stored in databases and available on the Internet and social networks. Therefore, many legal provisions require data processors to protect data to protect such personal data and prevent access by unauthorized persons from disclosure or alteration.

##### Second, Data processors must respect the confidentiality and privacy of users' data

Many laws also impose obligations on data processors to respect the confidentiality and privacy of users' data. These laws also include Egyptian law, which provides for several

<sup>5</sup> \_Legal Protection of Personal Data, Kafi Zagher Ashaoun, Al-Rafidain Journal of Law, Volume (23), Issue (84), 2021, p. 304.

<sup>6</sup> \_The nature of the assault on the personal data of users of social networking sites and their practical applications, Miri Kazem Obaid, Al-Muhaqiq Al-Hilli Journal for Legal and Political Sciences, No. 2, 2021, p. 436

<sup>7</sup> \_ Legal protection of personal data in the age of digital technology, previous reference, pp. 427, 428.

<sup>8</sup> Legal protection of personal data in the age of digital technology, previous reference, pp. 429, 430.

<sup>9</sup> \_ Legal protection of the privacy of personal data in the digital age, a comparative study, Tariq Jumaa Al-Sayed Rashid, Journal of Law and Economics, p. 92, without publication date, p. 223.

<sup>10</sup> \_ Legal protection of the privacy of personal data in the digital age, a comparative study, previous reference, 227.

penalties for anyone who violates the confidentiality and privacy of personal data <sup>[11]</sup>, and Iraqi law <sup>[12]</sup>.

### **Third: Therapists must conduct therapy within a legitimate framework and purpose**

Applying the description of lawfulness to the implementation of any personal data processing is one of the central legal guarantees the legislator provides to ensure against attacks since no one is allowed to collect personal data. The processing or use of data is permitted except for legitimate purposes and within the legal framework determined by the data subject and does not violate public order or morals.

### **Fourth: The therapist is not obligated to exceed the established purpose and duration of therapy**

The legislation also requires processors of personal data not to exceed the purposes for which those personal data were specified, not to use them for purposes other than those specified by the user, and not to store the data after the expiry of the period. After the stated purpose and period of processing expiry, the data processor must delete or transfer all data concerning the user to the user <sup>[13]</sup>.

## **Second Requirement**

### **Special laws to protect personal data**

Personal data protection is one of the rights expressly stipulated in many constitutions because it relates to the individual's right to life. Some constitutions do not explicitly provide for the right to personal data protection. Still, it is included in the text of other constitutions that stipulate individual rights, including the Iraqi Constitution, where we find Article 17 and Article 40 <sup>[14]</sup> of the Iraqi Constitution in force in 2005, It provides for an individual's right to privacy and the right not to have his or her

communications monitored, except in exceptional circumstances <sup>[15]</sup>.

If there are special laws in Arab countries to formulate and regulate the protection of personal data privacy, they have not taken the lead in formulating such laws in the face of foreign laws.

\_ The wording of Section 7 of the Citizenship Act No. (65) of 1972 states that: "The entries in the Register of Citizenship and the statements in the Register of Events are confidential and may be notified to any person" whose property belongs to He, as well as employees, persons entitled to search, judicial and investigative authorities and recruiters, about their work" <sup>[16]</sup>.

If we look at the Egyptian Legislature, we see that the 2014 Egyptian Constitution recognizes privacy as a right, with Articles 57 and 99 stating that life is sacred and cannot be touched and defended, and any attack on personal freedoms is excluded Constituting an attack on the sanctity of life in every aspect, before the issuance of Law No. (151) of the Personal Data Protection Act of 2020, we note that the Personal Data Protection Regulations have been standardized in many countries and regions. Places and in many texts, including:

\_ The Central Bank Law 2020 emphasizes the confidentiality of customers' data.

\_ Electronic Signatures Act No. 15 of 2004 also provides for penalties for disclosure of signature data <sup>[17]</sup>.

However, with the passage of the Personal Data Protection Law of 2020, the Egyptian Legislature recognized the importance of establishing a legal regime for personal data protection to address any risks arising from violations of individual data privacy and has addressed the Explain the obligations of processors and the procedures for the application of technical governance standards and how the relevant provisions of the constitutional provisions are applied and regulated <sup>[18]</sup>.

## **The end**

After research and review, we found that Arab man-made laws significantly limit the retention and protection of personal data, especially in the digital age, and privacy extends to all data related to the person concerned. Viewed or disclosed by anyone, causing harm to them, we also note that man-made laws have not been at the forefront in formulating laws to protect the privacy of personal information, and Iraqi law has not yet introduced any specific laws to protect personal information. Protection is emphasized in many different laws in addition to the provisions of the Constitution concerning the general rights of individuals.

## **Recommendations**

<sup>15</sup> Article 17 states, "Everyone shall guarantee the right to personal privacy, in a manner that does not conflict with the rights of others and public morals."

<sup>16</sup> \_ The right to protect personal data under the Constitution of the Republic of Iraq for the year 2005, previous reference, pp. 164-166.

<sup>17</sup> \_ Legal protection of electronic personal data, a comparative study, previous reference, p. 1904.

<sup>18</sup> \_ A critical study of the Personal Data Protection Law No. 151 of 2020, Law and Technology Research Center, British University in Egypt, no publication date, p. 19.

<sup>11</sup> Article 73 of the Egyptian Telecommunications Regulatory Law No. 10 of 2003 says: "Whoever commits one of the following acts during the performance of his job in the field of telecommunications or because of it shall be punished by imprisonment for a period of not less than three months and a fine of not less than five thousand pounds and not exceeding fifty thousand pounds, or by either of these two penalties:

1. Broadcasting, publishing or recording the content of a communications message or part thereof without having a legal basis in that.

4. Disclosing any information about users of communication networks or about what they make or what communications they receive, without right.

<sup>12</sup> \_ Protecting the user's information privacy through social networks, a comparative study, Muhammad Ahmed Al-Maadawi, without publication magazine, p. 33, part 4, without publication date, p. 1992.

<sup>13</sup> \_ Legal protection of personal data in the era of digital technology, Heba Ramadan Rajab, previous reference, p. 437.

<sup>14</sup> Article 40 of the Constitution stipulates that: "Freedom of communications and correspondence by post, telegraph, telephone, electronic and others is guaranteed, and it is not permissible to monitor or eavesdrop on them except for security necessity and by judicial decision."

We find that the Constitution has dealt with the two rights together, namely the right to protection and privacy of personal data due to their association and the union of their goal, so the right to protection and privacy aims at everything related to life from the sanctity of life in general, and the privacy of personal data.



- I recommend that the Iraqi Legislature consider establishing a special regime to protect personal data privacy, similar to the government in many Arab countries such as Egypt, Qatar, and the United Arab Emirates.
- Awareness must be raised about the dangers of handling personal data and how to handle it carefully.
- Committed to raising awareness and clarifying the obligations of personal data processors.

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