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General Assembly

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Guiding Package

Topic (1): The right to privacy in the digital age

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I. Abstract:

The world continues to evolve till this day; however, the marking evolution concerns the appearance of technology. Hence, it has facilitated many things, from researches to entertainment. Despite its advantages, it had been also a mean used to cause various conflicts. Privacy is essential in an individual's life, from workplace to home; nonetheless it had been hard for them to have it to its full. Likewise, privacy in the digital age faces approximately the same problem. Thus, it had been exploited and violated ever since the technological development as well as the massive use of social media. There are many ways of violating an individual's personal data; hence, hacking is the most common act. However, like the technological development, the exploitation also developed, for as known corporations tend to manipulate their users in order to benefit from it, by knowing their personal data, they attract them to advertisements that'll be of their liking, therefore making them buy it. However, they mostly aim towards collecting anonymous data like is stated by Google. Furthermore, governments are also culprits of such acts, benefiting from the knowledge of secret information of a rival country. Those types of acts are what make the right to privacy in the digital all the more necessary. Hence, there had been a number of resolutions written and laws established in order to put an end to such act. Despite the effort, multiple violations are still spread, what should be done in order to establish right to digital privacy¹ once and for all?

¹ The human right of an individual's privacy in regards to their digital life seeing the technological development and attachment human have to their digital life and therefore a need for its privacy.

II. Introduction

People have certain moments in their lives worth remembering and others worth forgetting. Chances are high that some of these memories worth forgetting have already been put on the Internet intentionally, whereas the chances are equally high that they are put on the Internet unintentionally. Thus the importance of the right to privacy in the digital age. It is the right given to all individuals to maintain confidentiality of their personal technological belongings. Seeing the technological development existing nowadays, and people's access to all its means for their own personal needs; the concept of a protected environment needed for them in order to preserve their virtual possessions is therefore essential in the developed world where technology plays an indispensable role. Ergo, leakage of information isn't only limited to memories, but to all and any personal data; phone calls, messages, emails, credit card history, etc. However, while there are many nations and governments disapproving of this concept for national security reasons, there are also other privacy exploiters existing and expanding such as large corporations; Facebook, Google, etc... who sell people's personal data to produce income. Therefore making social media an essential mean in intervening in an individual's digital privacy. Needless to say, the intense usage of different types of social media is in the exploiters' advantage, since it elevates the possibilities in leaking people's personal information.

III. Key terms:

1. ***Hacking:*** To gain unauthorized access to data in a system or computer and using it for a purpose other than the intended one. The person doing such act is known as a "Hacker".
2. ***Cracking:*** Breaking into a computer system (or software) without knowing the password or possessing the license, also called "cracking a code". The person doing such act is known as a "cracker".
3. ***Copy protection/ copyright:*** Any effort designed to prevent the reproduction of software, music, films, photos etc. for ownership reasons.

4. **Data protection:** A Legal control over access and usage of the data restored in computers.
5. **Surveillance:** Close observation, especially of a suspected criminal or spy.
6. **Privacy:** the state of having the space needed and non-forced interference.

IV. Background information:

An upgraded world with upgraded exploitation:

The interference with people's digital privacy has initiated with the technological development. For as, the exploiters searching for ways to get people's personal data, and even benefit from it realized the excessive use of technologies and how beneficial it might be for them. Hence, an upgraded world with upgraded exploitation. The simplest of examples of any kind of personal data exploitation concerns the well known corporations such as Facebook that, knowing its user's personal information presents them with advertisements of products appealing to their interests and therefore gaining profit when a user is tempted by an advertisement, ergo these corporations benefit from it economically. Furthermore, there exists more harmful ways of exploitation, like hacking, which could lead to serious consequences such as erasing someone's valuable work. Other than corporations, many governments have been known for their surveillance, where it's international or domestic. They might hack their security data yet instead accuse other countries that might be known as potential rivals in order to jeopardize their image, which is related to cyber terrorism.

Right to be FORGOTTEN?!

While the protection of people's privacy had long been discussed in national legislations, Europe data protection laws have been only evolving since the second half of the twentieth century. The European Commission (EC), as well as Argentina claims to have recognized the problem of privacy and recently proposed a "right to be forgotten"²

² A concept put into practice in the European Union and Argentina since 2006

which is only permitted in the European Union. Hence, the EC wanted to strengthen the control and digital rights of individuals, and found that a way of doing so is by giving them the right to have their data fully removed from search results (on search engines). In 2012, the EC stated that all data must be deleted whenever their owners no longer want “their data to be processed and there are no legitimate grounds for retaining³ it”. How? They must request that the search engines remove certain queries while giving their reasoning. Hence, conditions in regards to removing a link are the decision whether to remove the link is a balance between competing interests; the rights of the individual to privacy and the broader public interest. The operator must consider the nature of the information; whether it is particularly sensitive and relates to an individual’s private life; and the interests of the general public in knowing the information.

However, the Vice-President of the EC clarified that the right to be forgotten cannot be always applied and absolute since the right to privacy is not absolute. He stated so, stressing on the balance needed for fundamental rights such as the “right to be forgotten”, alike the freedom of press and freedom of expression.

Moreover, the ECJ held that Google is a "controller" of personal data, and therefore subject to EU data protection rules. Google could not escape its responsibilities under European law by saying that it was a search engine and simply reflecting what people were searching for.

Since then, Google claims to have processed 253,617 requests to remove 920,258 links, and approved just over 40 per cent of those requests. In the UK alone, the company has received 32,076 requests to remove 126,571 links, and approved 37.5 per cent.

Nonetheless, in Britain, 183 people have reportedly complained to the UK's data protection watchdog, the Information Commissioner's Office (ICO), after Google denied their requests to remove links.

The ICO has agreed with Google's conclusions in around three quarters of these cases, but there are 48 cases where the ICO believes Google isn't doing the “right” job.

Google has been asked to review these cases, and in many cases has reversed its decision, according to the ICO. However, the search company faces possible legal action from the

³ Holding

ICO if the remaining cases are not resolved.

"We'll be looking to resolve the remaining cases through discussion and negotiation with Google, though we have enforcement powers available to us if required," said ICO deputy commissioner and director of data protection, David Smith.

The European ruling is about providing individuals with a suitable mechanism for getting information, which is unnecessary to be removed from a search engine's results page. If there is a clear public interest in the information remaining available then it will stay there.

The legislation has received heavy criticism from a number of parties, including the House of Lords EU Committee, which described Google's acts (refusal) as "unworkable and wrong", and Wikipedia founder Jimmy Wales, who described it as "deeply immoral".

However, the ICO has defended the legislation, claiming that it has "raised awareness of people's data protection rights" and that removal of links from search results "can have a real benefit".

Violations of privacy in the digital age:

Despite the different concepts created for the benefit of right to privacy in the digital age, there continues to exist violations in people's data, hence there are large corporations responsible of hacking servers for their potential opponent corporations, and therefore illegitimately stealing private information such as important researches done by the corporation, and using them for their own benefit. Thus, making the right to privacy in the digital age an imperative right. An example regards the United States, since

V. Major countries involved:

The United States of America:

The United States had been accused several times of having secret surveillance, whether

national or international, in domestic homes. Hence, a main concern while discussing a resolution in 2013 for right to privacy was the U.S surveillance practices and the security of digital information. Despite the accusations of their interference (hacking,etc), they are considered one of the most private countries, placing the highest values on their personal information.

The USA has been a victim of numerous cyber security attacks that threaten the privacy and security of their citizens. In 2015, there had been a hack that exposed 21,5 million people in federal employee's security data, meanwhile the government has yet to notify them, and had later accused the Chinese government of these hacks, without having any evidence. In addition, the NSA (National Security Surveillance) is an example of American government surveillance accused of interfering in other government's systems or spying.

The Republic of France:

The French constitution does not provide a fundamental and accurate right to privacy but makes a reference to the Declaration of Human and Civil Rights⁴, which guarantees a general right to privacy. Also, France was among the first countries that authorized a law⁵ on data protection.⁶

Federal republic of Germany:

Germany and Brazil are responsible for appointing in a resolution on right to privacy in the digital age⁷, an independent watchdog or special rapporteur to monitor privacy rights in the digital age. Also, German officials stated in October 2013 that U.S agencies might have spied on German Chancellor Angela Merkel's mobile phone. Furthermore, the legal ground for privacy protection when personal data is being processed is in the German

⁴ August 1789 (1789 Declaration) in its preamble, Art. 9 of the French Civil Code (CC)

⁵ <http://www.loc.gov/law/help/online-privacy-law/france.php>

⁶ Enactment of Law 78-17 on Information Technologies, Data Files and Civil Liberties.

⁷ https://www.hrw.org/sites/default/files/related_material/UNGA_upload_0.pdf

Federal Data Protection Act.

Brazil:

Brazil was a main sponsor of the draft resolution of 2013 titled “Right to privacy in the digital age”. There were reports stating the United States spying on Brazil’s President Dilma Rousseff among other political leaders.

The United Kingdom:

On June 5, 2013, Edward Snowden⁸ released documents indicating that the governments of the United States and the United Kingdom, among other European countries, were engaging in the bulk collection of communications metadata and have intercepted the contents of millions of communications of their own citizens. Therefore, much attention has been paid to surveillance in the two countries

VI. Major organizations involved:

American Civil Liberties Union:

ACLU is a non-profit, nonpartisan organization whose mission is to defend and preserve the individual rights and liberties to every individual by the Constitution and laws of the United States.

European Digital Rights (EDRi):

It’s an international advocacy group headquartered in Brussels, Belgium. Its purpose is to maintain Privacy and Data Protection, Net Neutrality and Copyright. European Digital Rights and its members are currently fighting for a European Data Protection Regulation. Through an important awareness-raising campaign, citizens are able to contact Members of the European Parliament representing their country in order to ask them to defend fundamental rights to privacy and data protection.

⁸ American computer professional who provided the Guardian with top-secret NSA documents leading to leaks about US surveillance on phone and internet communications

VII. UN Involvement:

- In December 2013, the United Nations General Assembly accepted resolution 68/167, which expresses deep concern at the negative impact that surveillance and interception of communications may have on human rights. The General Assembly affirmed that the right to privacy must be given to people, whether online or offline, and it called upon all States to respect and protect the right to privacy in digital communication
- In a passed resolution on March 26, 2015, the UN Human Rights Council decided to appoint a special rapporteur on the right to privacy, with a particular focus on issues arising in the digital age. The resolution was welcomed by international civil society organizations, which have been advocating for the creation of a special command from the months following the leaks of Edward Snowden. Organized by Germany and Brazil, the resolution is an affirmation that government communications surveillance continues to concern the international community nearly two years after the first disclosure.
- The first UN privacy principal accentuates the world's needs of an effective law for the Internet to safeguard data and combat the threats of digital "spying".
- The German president of the Human Rights Council rejected the U.N.'s first digital privacy investigator after activist groups said she would not be a strong enough critic of U.S. surveillance.

VIII. Possible solutions: (To prevent intrusions of privacy)

1. Augmenting the amount of watchdogs present in order to survey and protect people's personal content
2. Adding severe security programs in different regions, focusing on the ones that might be culprits of such act.
3. Enforcing a severe penalty to whom might intervene with one's digital privacy.
4. Maintain a stricter guidelines on how customer data is used

IX. Guiding questions:

1. How can the UN ensure the success of a legitimate law, newly enforced, for the right to privacy in the digital age?
2. To what extent is the violation of digital privacy interfering with countries' political relations?
3. Is the developed world an essential reason for the exploitation of people's privacy?
4. How can a government of an LDC⁹ country guarantee the safety of their mere digital programs (computer programs, infrastructure,etc)?
5. How can a government of a developed country guarantee the safety of their computer programs,etc?
6. What sort of concept should be applied that would make a long-lasting improvement to privacy in the digital world?
7. Knowing that the right to privacy in the digital age is an encouraged concept, what might be the obstacles or issues in establishment of effective laws?
8. How is your country relevantly related to the concept of the right to privacy in the digital age?
9. What's your country's position I regards to the right to privacy? Does it have surveillance programs, etc... ?

⁹ Less developed country

X. Useful links:

- <http://www.reuters.com/article/2015/07/03/us-un-surveillance-idUSKCN0PD2BG20150703>
- <https://www.accessnow.org/blog/2013/11/01/brazil-germany-introduce-resolution-on-the-right-to-privacy-in-the-digital->
- <https://hbr.org/2015/05/consumer-privacy-in-the-digital-age>
- <http://www.computerworld.com/article/2902925/un-to-appoint-watchdog-to-focus-on-privacy-in-digital-age.html>
- <http://ilg2.org/2015/04/08/the-un-creates-a-new-rapporteur-on-the-right-to-privacy-in-the-digital-age/>
- [http://www.theguardian.com/world/2015/mar/27/un-sets-up-privacy-rapporteur-role-snowden-leaks,](http://www.theguardian.com/world/2015/mar/27/un-sets-up-privacy-rapporteur-role-snowden-leaks)
- <http://www.telegraph.co.uk/technology/google/11599909/EU-right-to-be-forgotten-one-year-on.html>
- <https://edri.org>

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