



“REGULATION AND CONTROL OF PERSONAL INFORMATION: DATA PROTECTION, DEFAMATION AND RELATED ISSUES”

CHAPTER 12



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INTRODUCTION

- There are a number of issues and concerns for the protection of individual privacy and integrity arising out of the use of computer and computer networks.
- In just a few years, privacy and data protection has become one of the most important topics in the information society for businesses, governments and consumers.
- In a society where social networks such as Facebook, Twitter, LinkedIn, YouTube are becoming ubiquitous, the right of every person to their privacy is being significantly challenged, so adequate legal protection is absolutely necessary.

INTRODUCTION

- The internet has literally changed the way we interact with everyday life.
- Everything you need can now be accessed in the comfort of your own home, right from the computer.
- Shopping for apparel, electronics, and even real estate can all be done comfortably online.
- Why waste precious gas money on a trip to a retail store when you can download your favorite songs, movies and games from the internet?
- Check the balance of your bank account at any time of day or remotely access client data and finish all of your work at home.
- In fact, there is little you can't do online these days.

INTRODUCTION

- With the convenience of the internet comes many dangers.
- Hackers and malicious programs all pose a threat to your computer and the information it contains.
- Whether you're conducting business online or merely managing your emails, learning to practice safe computing is a must.

DATA PROTECTION

- Data protection is the process of safeguarding important information from corruption, compromise or loss.
- Data protection is the legal control over access to and use of data stored in computers.
- It includes laws and regulations that make it illegal to store or share some types of information about people without their knowledge or permission

DATA PROTECTION

- The challenge of data privacy is to utilize data while protecting an individual's privacy preferences and their personally identifiable information.
- The fields of computer security, data security, and information security design and utilize software, hardware, and human resources to address this issue.

DATA PROTECTION

- The ability to control the information one reveals about oneself over the internet, and who can access that information, has become a growing concern.
- These concerns include whether email can be stored or read by third parties without consent, or whether third parties can continue to track the websites that someone has visited.
- Another concern is if the websites that are visited can collect, store, and possibly share personally identifiable information about users.
- The advent of various search engines and the use of data mining created a capability for data about individuals to be collected and combined from a wide variety of sources very easily.

DATA PROTECTION

- Email isn't the only internet content with privacy concerns.
- In an age where increasing amounts of information are going online, social networking sites pose additional privacy challenges.
- People may be tagged in photos or have valuable information exposed about themselves either by choice or unexpectedly by others.
- Caution should be exercised with what information is being posted, as social networks vary in what they allow users to make private and what remains publicly accessible.
- Without strong security settings in place and careful attention to what remains public, a person can be profiled by searching for and collecting disparate pieces of information, worst case leading to cases of cyberstalking or reputational damage.

DATA PROTECTION LAWS

- **Data protection laws** prohibit the disclosure or misuse of information about private individuals.
- Over 80 countries and independent territories, including nearly every country in Europe and many in Latin America and the Caribbean, Asia, and Africa, have now adopted comprehensive data protection laws.
- The European Union has the General Data Protection Regulation, in force since May 25, 2018.

DATA PROTECTION LAWS

- These laws are based on Fair Information Practice that was first developed in the United States in the 1970s. The basic principles of data protection are:
 - For all data collected there should be a stated purpose.
 - Information collected by an individual cannot be disclosed to other organizations or individuals unless specifically authorized by law or by consent of the individual
 - Records kept on an individual should be accurate and up to date
 - There should be mechanisms for individuals to review data about them, to ensure accuracy. This may include periodic reporting
 - Data should be deleted when it is no longer needed for the stated purpose
 - Transmission of personal information to locations where "equivalent" personal data protection cannot be assured is prohibited
 - Some data is too sensitive to be collected, unless there are extreme circumstances (e.g. religion)

DATA PROTECTION IN PAKISTAN

**“PERSONAL DATA PROTECTION BILL
2018”**

PERSONAL DATA PROTECTION BILL 2018

- A new Personal Data Protection Bill 2018 Draft (the “Bill”) has been proposed by the Ministry of Information Technology and Telecommunication (“MOITT”) of Pakistan.
- With this Bill, Pakistan joins the wave of new data protection laws that have been drafted or passed since Europe’s General Data Protection Regulation (GDPR).

PERSONAL DATA PROTECTION BILL 2018

- A new enforcement body, the National Commission for Personal Data Protection (NCPDP), will be established under the Bill.
- NCPDP will receive and decide complaints from individuals, as well as engage, support, guide, facilitate, train and persuade data controllers, data processors to ensure protection of personal data.
- The current draft of the Bill has 25 pages with requirements and individual rights similar to the GDPR.

DEFAMATION

- Defamation is a legal term that refers to any statement made by a person, whether verbal or printed, that causes harm to another person's reputation or character.
- A defamatory statement made in writing, or "published," it is considered "libel," a defamatory statement that is spoken is considered "slander."
- Defamation is not considered a criminal act, but at civil grounds its wrong.
- As the Constitution of the majority of countries promise their citizens freedom of speech, there is often a fine line between exercising that right and making defamatory statements that harm another person.

DEFAMATION AND THE LAW

- According to Article 17 of the United Nations International Covenant on Civil and Political Rights, no person may be subjected to unlawful interference with his family, home, privacy, honor, or reputation.
- It also specifies that every person has the right to be protected against such interference.
- While defamation of character is not considered a criminal act in the United States, a person accused of making defamatory statements can be sued in civil court for monetary damages.

ELEMENTS OF A DEFAMATION LAWSUIT

- Defamation laws differ for various countries, but commonly, there are accepted standards that are universal.
- When a person believes he has been a victim of libel or slander, filing a civil lawsuit may help him obtain a court order for the defendant to withdraw the defamatory remarks, and perhaps to issue a public apology.
- If the victim proves his defamation case, he may be awarded monetary damages for his pain and suffering, as well as any monetary losses he may have suffered as a result of the libel or slander.

ELEMENTS OF A DEFAMATION LAWSUIT

- Required elements of a defamation lawsuit include:
 - A defamatory statement was made.
 - The statement made was published in some fashion, meaning it was told to others either verbally or in writing.
 - The statement was not true, and the person who published the statement knew that it was not true.
 - The statement caused the victim harm or injury, emotionally or financially.

INJURY CAUSED BY A DEFAMATORY STATEMENT

- The Statement must have directly caused harm or injury to the victim. Defamation can cause two main types of injury:
 - **Harm to reputation** – the loss of a job, loss of customers, causing the victim to become a social outcast.
 - **Financial harm** – the victim, whether personally or as a business owner, experiences loss of business or money, or incurs expenses in the attempt to repair his reputation.

DEFENSES TO A CLAIM OF DEFAMATION

- When a person is accused of defamation, the law looks at many factors. Some common defenses to a claim of defamation may include:
 - **Statements made in good faith** – the person who made the statements reasonably believed that the statements were true.
 - **Opinion** – because opinions are considered subjective, and not necessarily false, they are not considered defamatory.
 - **Verbal abuse**– if a statement made is not to be taken literally or believed, such as name-calling in anger, it is not considered defamatory.
 - **Unbelieved statement** – if the person hearing the defamatory statement does not believe it, or does not take an interest in it, the statement is considered not to have harmed the victim's reputation in any way.