

Atheoretical legal policy for privacy protection in Japan

Yohko Orito

Faculty of Law and Letters, Ehime University

3 Bunkyo-cho, Matsuyama, Ehime 790-8577, Japan

Email: orito@ll.ehime-u.ac.jp

Kiyoshi Murata

Centre for Business Information Ethics, School of Commerce, Meiji University

1-1 Kanda Surugadai, Chiyoda, Tokyo 101-8301, Japan

Email: kmurata@meiji.ac.jp

Abstract

There is just less effective privacy protection law in Japan. The Act for Protection of Personal Information (APPI), which was put into effect in April 2005 as the basic law for personal information protection covering both the public and private sectors, was crafted centred on protection of personally identifiable information (PII) collected, stored and used by organisations, and the makers of the law deliberately precluded the elements of privacy protection beyond PII protection on the ground that the concept of privacy was elusive. Actually, APPI is not endorsed by careful theoretical considerations of the social importance of privacy protection but superficially follows the OECD's (1980) eight principles and EU's (1995) Directive 95/46/EC. This law is characterised more as regulation for organisations' personal data handling than as law for protecting the right to privacy.

Since soon after its enforcement, various problems of APPI have been pointed out. Moreover, in the current circumstance where the widespread use of social media enhances individual users' revelation of personal information of themselves and others and the integrated reformation of taxation and social security systems based on the development and operation of citizen numbering systems is being engaged in by the central government, the limited effectiveness of APPI for privacy protection is highlighted. Nevertheless, the law makers who are involved in revising APPI seem still hesitate to incorporate the proper theoretical understanding of the social significance of privacy protection into the revised law. This study discusses an appropriate legal policy for privacy protection suitable to the current socio-technological environment in Japan.

References

European Parliament and the Council of the European Union (1995), Directive 95/46/EC of the

European Parliament and the Council of 24 October 1995 on the Protection of Individuals with Regard to the Processing of Personal information and on the Free Movement of Such Data, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995L0046:en:HTML> (accessed 16 March 2012).

OECD (1980), OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data, available at: http://www.oecd.org/document/18/0,3343,en_2649_34255_1815186_1_1_1_1,00.html (accessed 16 March 2012).