75 - PRIVACY AND TECHNOLOGY

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It is no secret that the achievement of individual rights it is a great victory in human evolution, and can be considered a fundamental and inalienable right. However, one can not deny also that the need for information exists since the dawn of mankind, the digital age can not be stopped. It happens that the protection of individual rights has been unable to keep up with the considerable and rapid changes brought about by virtual society, even enjoying the right to privacy and the privacy explicitly in the Constitution of 1988, the special legal regime, as entrenchment clause (art. 60, par. 4, IV) and immediate application (Art. 5, par. 1). Even though constitutionally protected, the new information society, exposes people to embarrassment and somehow interfere, even without the consent of the individuals in their private lives. Worth observing that configures the right to privacy is a fundamental instrument against discrimination, for equality and freedom. It is observed that with the passage of time, the customs were changed and new values emerged and the vast majority of people believe that the computer was a miracle for the exchange of information, bringing consequent growing cultural, political, scientific, form of entertainment and allowing for the practice of sports, even within your own home, with the advent of these video games that make reading the body. But few stop to think about how your privacy is being invaded, as this expose your data and pictures. In the current information society, we can even say that "we are our information" because they define us, rank us in the label.

Several references to privacy can be found by focusing on the need for solitude. "The right to be alone. "Privacy in this sense does not mean loneliness or isolation, but the right to isolate themselves, away from the others, if not. keep them away from their particularities.The right to be alone on this mental peace, the maintenance of secrecy and non-disclosure of his personal life, marriage, customs, personal habits, etc. Power would speak in intimacy outside and another inside. That like the intimacy that man would enjoy, apart from the crowd that encompasses. Brings the Bible, according to jurists theologians that the person is formed by three spheres, "body, soul and spirit", this division aims to explain what the person is related to another, which refers to the "I" inside and what part relates to God, bringing order, sins and deepest secrets of the person and the legal science is also close this division into spheres of privacy. According to analysis of some doctrines surveyed, "the human being has a sphere of eigenvalues that are put in their conduct not only for the state but also in coexistence with others. These rights have stamp sheet and others are unsusceptible of economic measurement". The Right to Privacy encompasses the privacy of the information (establishing rules for data movement), the body (physical protection of the body against envasivas techniques); communication (letters, phone calls and other means and territorial (limited intrusion in the home or work).

The right to privacy has a dual character, it is a fundamental right while personality. The right to privacy derives rights of personality, which is part of the fundamental rights or guarantees. It is one of the most important civil rights, demonstrates our autonomy, integrity and freedom. Doctrine, especially prepared by the German Constitutional Court, mentioned in the work of Edilson and Aguiar Farias Junior constants used in the literature, brings the Theory of concentric circles, which establishes three levels. Larger diameter outer sphere representing the sphere of private life, with articles related to news and attitudes that the subject you want to delete the knowledge of others, such as: body image, habits, customs and mannerisms.Mean sphere, called confidential, which is the element that causes an individual to share its content with another person, excluding third parties in general and those belonging to the cycle of private and family life, such as: what concerns financial life and conjugal. And the smaller sphere, is linked to the secret, where the reservation, the secrecy, the manifestations of the person who should not come to the knowledge of others, given their closeness in the narrower sense. Aguiar Junior still makes mention of the psyche as a circle concentric sphere even more, which would protect the intimacy. This circle can not penetrate because it is the proper field of the inviolability and the right mental. In this context the right protects such property preventing psychological and physical torture, mental washing and forced confession. For other scholars privacy can be understood as a single sphere of life of the person that no one can enter or meddle without being authorized or invited.

Is there space for every human being, to be her own and relate only to himself, he has the right to leave out of the reach of others. In summary, we could then say that pertain to privacy issues related to personal health, religious convictions, moral, family life and affective relations of friendship, leisure, professional life and material situation, should be observed however, the vision of what this represents is not equal for everyone, such as politicians, artists and celebrities. Also, are the private sphere the home, correspondence and personal communications (telegraph, telephone, electronic, etc.). As for the definition, it is worth remembering that although it is common to use the word privacy and intimacy, interchangeably, they have different concepts. The difference lies in the fact that intimacy belongs to a circle narrower than the right to privacy. The private life of the individual with regard to situations of personal choice, but may be limited and requested by third parties. It also covers situations involving aspects which, somehow, not like any publicity around it, either in their working relationships, family or community sectors and much less than is exposed on facebook, google. Intimacy is a more unique context that the person may have, without any social repercussions, diary, the secret oath, their own beliefs, undesirable situations of personal modesty. The analysis and conceptualization of privacy dispenses analysis and care, especially because they suffer constant interference on the new technologies. It seems strange that the modern comfort may cause disruption in the citadel individual. However, the research conducted on this problem show that the increase in private spying and intrusion into privacy of others, and has been facilitated by the same acicatados technological resources. It is impossible not to mention about the e-mail has become a tool of wide popularity due to its speed, functionality, simplicity and low cost, at least for the sender, but there is also to be noted the fact that they brought also the inconvenience, especially in the face of unsolicited messages sent in mass, invading the privacy of the Internet, one of the greatest disrespect the privacy and quiet of the individual, losing only to such absurd infringement and sale of personal data contained in the database. The violation of the right to privacy by computerized databases has been one of the biggest targets entrepreneurs with commercial and legal scholars, who try to reconcile evolution and protection of privacy, conflict of fundamental rights to information and privacy, and the absence of effective control. The possibility of selling database brings annoyance and offense including the right of privacy with respect to availability, reflected by the alienation.

The commodification and exploitation of information, data and personal information of an intimate and private serve now, and contribute to research imprint beneficial to society, to direct strategies markenting, discriminate against certain types of people, hampering freedom of certain category individuals. As for email, greater emphasis is to be given to spam (nomenclature used to express succinctly sending bulk messages, unsolicited and usually for commercial purposes, through the Internet), has a very low cost to the issuer, it can also be used anonymity, however, the cost will receptor previously identified. Currently there is even a profession spammer, however, it is noteworthy that against sending of unsolicited and against other behaviors that violate the right to privacy, no constitutional protection contained in Article 5, paragraph X and item XII. Although there is no specific legislation regarding the right to privacy in the new society of information technology, it is possible to extract the existing law positivised, protections against practices that violate the right to privacy. No constitutional protection contained in Article 5, paragraph X and XII clause above mentioned, which thus provides: Article 5 All are equal before the law, without distinction whatsoever, guaranteeing Brazilians and foreigners residing in the country the inviolable right to life, liberty, equality, security and property, as follows: X - are inviolable intimacy, private life, honor and image of persons, guaranteeing the right to compensation for property or moral damages resulting from the violation; XII - is inviolable secrecy of correspondence and of telegraphic, data and telephone communications, except in the latter case, by court order, in cases and in the manner provided by law for purposes of criminal investigation or criminal procedural instruction; Regarding the right to privacy in general, can be cited other constitutional provisions, such as : the prohibition of cruel and invasive body and dignity (section III and XLII), image protection (inc. V), the freedom of thought, conscience and belief (inc. IV and VI), the inviolability of the home (inc. XI), the confidentiality of correspondence and communications (inc. XII), copyright law (inc. XXVII), the respect to physical and moral integrity of the prisoner (inc. XLIX), the right to know and rectify personal information (inc. XXXIII and LXXII, the excuse of consciousness (inc. VIII). The current Civil Code also provides protection to the right to privacy in Article 21, 186, 187 and the Code of Consumer Protection provides protection of the right of privacy in Article 6, Paragraph VI (prevention and repair of damage and moral), articles 30 (linkage of the product information provided), 31 (information clearly, accurately), 37 (prohibition of misleading information, tampering), paragraphs 1, 2 and 3, 39, III and Article 43 (right to their registered data) beyond what brings in Title II, the criminal offenses, articles 66 (false statement, misleading), 67 (misleading advertising), 72 (prevent or hinder access) and 73 (stop immediately correct false information), providing penalties for those who commit offenses. The Criminal Code provides about the crimes committed against the individual's privacy by current technology, and can be framed to criminal offenses described in Articles 138 (slander), 139 (defamation), 140 (mischief), 146 (embarrassment) and 147 (threat). The law of criminal misdemeanors may also be mentioned, especially regarding the text of Articles 42 (Disturbing the peace), 61 (disturb or offend modesty) and 65 (molest). It is desirable awareness and education about the value and social value of privacy for the purpose of this right is granted in its real importance for human development and preservation of liberty and individual autonomy, especially in virtual space. The legal effectiveness of public law is a duty of public authorities, however, by more than the right to be individual, may seem insignificant, becomes large and important when defended by each, and the right as a whole.

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PRIVACY AND TECHNOLOGY

ABSTRACT

Contemporary society is experiencing a period of intense technological change in pace irreversible, and these changes invade privacy, including the human being in the virtual world often without even giving him the right to decide whether it wants to be inserted either in the opportunities that their personal information are registered in various types of database is the capture of your image in cameras commonly existing entries in public places and private, digital camera, cell phones, phone calls, filling out electronic forms, among others. Therefore, this article is a brief study of the meaning of privacy and intimacy, bringing their legal protection, in this Constitution and legislation infra basically having as main method to analyze the Brazilian doctrine, secondarily articles and reviews on the internet willing, with purpose of creating questions and awareness about the need for an education focused on the social value in order to respect the intimacy and privacy, especially in virtual space before a right positivised.

KEYWORDS: Privacy. Right. Technology.

VIE PRIVÉE ET DE LA TECHNOLOGIE

RÉSUMÉ

La société contemporaine connaît une période de changement technologique intense en rythme irréversible, et ces changements envahir la vie privée, y compris l'être humain dans le monde virtuel souvent sans même lui donner le droit de décider si elle veut être insérée soit dans les occasions qui leur renseignements personnels sont enregistrés dans différents types de base de données est la capture de l'image dans les appareils couramment entrées existantes dans les lieux publics et privés, les appareils photo numériques, les téléphones cellulaires, les appels téléphoniques, remplir des formulaires électroniques, entre autres. Par conséquent, cet article est une brève étude de la signification de la vie privée et de l'intimité, ce qui porte leur protection juridique, dans la présente Constitution et de la législation infra ayant essentiellement comme principale méthode pour analyser la doctrine brésilienne, secondement des articles et des critiques sur l'internet prêt, avec but de créer des questions et de sensibilisation sur la nécessité d'une éducation axée sur la valeur sociale de manière à respecter l'intimité et la vie privée, en particulier dans l'espace virtuel avant un droit positivée.

PRIVACIDAD Y TECNOLOGÍA

RESUMEN

La sociedad contemporánea está experimentando un período de cambio tecnológico intenso ritmo irreversible, y estos cambios invadir la privacidad, incluyendo al ser humano en el mundo virtual a menudo sin siquiera darle el derecho a decidir si quiere que se inserta bien en las oportunidades que su datos personales están registrados en diversos tipos de base de datos es la captura de la imagen en las cámaras muestran entradas comunes existentes en los lugares públicos y privados, cámaras digitales, teléfonos celulares, llamadas telefónicas, llenar formularios electrónicos, entre otros. Por lo tanto, este artículo es un breve estudio del significado de la vida privada y la intimidad, con lo que su protección jurídica, en esta Constitución y en la legislación infra que tiene, básicamente, como principal método para analizar la doctrina brasileña, secundariamente artículos y reseñas en Internet mediante, con propósito de crear preguntas y sensibilización sobre la necesidad de una educación centrada en el valor social con el fin de respetar la intimidad y la privacidad, especialmente en el espacio virtual antes de un derecho positivizados.

PRIVACIDADE E TECNOLOGIA

RESUMO

A sociedade contemporânea vive um momento de intensa transformação tecnológica, em ritmo irreversível, e estas mudanças invadem a privacidade, incluindo o ser humano no mundo virtual sem muitas vezes sequer lhe dar a faculdade de decidir se nele quer ser inserido, seja nas oportunidades que suas informações pessoais são cadastradas nos mais variados tipos de banco de dados, seja na captação de sua imagem nas câmeras comumente existentes nas entradas de recintos públicos e particulares, câmeras fotográficas digitais, celulares, ligações telefônicas, preenchimento de formulários eletrônicos, dentre outros. Por isso, este artigo faz um breve estudo do significado da privacidade e intimidade, trazendo sua proteção jurídica, presente na Constituição Federal e legislação infra, fundamentalmente tendo como método principal a análise da doutrina brasileira, secundariamente artigos e comentários dispostos na internet, com a finalidade de criar questionamentos e conscientização a respeito da necessidade de uma educação focada no valor social visando respeitar a intimidade e privacidade, especialmente no espaço virtual, diante de um direito positivado.

PALAVRAS-CHAVES: Privacidade. Direito. Tecnologia.