

Research on the limit of Personal Information Protection of public figures-- From the perspective of L, a public figure

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Abstract. Under the background of the development of science and technology, the development of the network has provided convenient conditions for the public to pay attention to the lives of public figures, and the public's attention to public figures has only increased. Through sorting out the events of public figure L, it analyzes the reasons for the problem of personal information protection of public figures mainly include the conflict between personal information of public figures and the public's right to know. The conflict between the personal information of public figures and their personal economic interests and the conflict between the personal information of public figures and media reports. In view of the above reasons, to scientifically resolve the conflicts and solve the causes of the problems, it is urgent to regulate from the legislative level. The principle of proportion should be fully followed to effectively balance the individual rights and interests of public figures and social interests; Clarifying the scope of protection of personal information of public figures; At the level of legal norms, the protection of personal information of public figures and general individuals should be further clarified.

Keywords: public figures; Personal information; The right to privacy; General individual

1. Introduction

The personal information and privacy of public figures have always been the focus of public attention. In the early period, the civil law circle had a concentrated discussion on the limit of privacy protection of public figures. "Privacy" usually corresponds to "public". Since public figures are more "public" than ordinary individuals, different subjects of the same information mean different things. In other words, "the act of disclosing the same fact will depend entirely on the person to whom it is intended." The most important part of personal information is the word "individual". However, since public figures usually have the characteristics of "public" and "social", their personal scope is also affected by "social" to a certain extent, so it is necessary to make certain restrictions. In general, the protection of personal information is not the same as the protection of privacy. The processing of personal information can often provide convenience to the corresponding natural person, and even play the role of supervision to a certain extent, which is particularly prominent among public figures. Therefore, it is not possible to completely prohibit the acquisition and processing of personal information like the protection of privacy. At present, personal information data is huge and complex. Although each piece of personal information only involves the personal information rights and interests of the natural person on the surface, in fact, personal information data is sometimes highly related to national security and social interests, so the protection of personal information is imminent.

The Civil Code of the People's Republic of China stipulates the protection of personal information in more detail, and places it together with the right to privacy in the code of personality rights, making the protection of personal information become the focus of public attention again. The protection of personal information is added into civil Code, which is an important initiative in our civil law. But privacy and personal information protection are not the same. In Article 1034 of the Civil Code, it is clearly stipulated that the personal information of natural persons is protected by law. Private information in personal information, applicable to the provisions of privacy; In the absence of such provisions, the provisions on the protection of personal information shall apply. As a result, the Personal Information Protection Law, which came into effect in November 2021, is in line with it. From the above legal provisions, it is not difficult to see that the relevant provisions on

privacy protection in the Civil Code shall be applied first to the private information involving privacy in the personal information, and the protection of personal information shall be applied if there are no provisions. Therefore, from the perspective of the Civil Code, the protection of privacy is more inclined to be a perfect and tortious protection, while the protection of personal information obviously cannot be called a right protection, and the protection of personal information may be weakened to a certain extent compared with the protection of privacy. In addition, the provisions on privacy protection in the Civil Code clearly point out that, except for legal provisions or the explicit consent of the right holder, other organizations or individuals are forbidden to spy on or invade the privacy of others. In other words, in terms of privacy protection, the Civil Code does not make a detailed distinction between the protection of public figures and ordinary individuals. But when it comes to protecting personal information, things are different. In article one thousand and thirty-five, the principle of direct has been clear about the handling of personal information, legal, proper and the principle of necessity and even the behavior person handling personal information is not provided in article 1036 of civil liability, including the to safeguard the public interest for the purpose of the implementation of the handling of the personal information. Obviously, personal information is no longer a kind of rights and interests only belonging to the natural person, but has a certain sociality. Personal information gradually evolves into an intangible "asset", which accompanies People's Daily life. On November 1, 2021, China officially implemented the Personal Information Protection Law of the People's Republic of China. Personal information has become the focus of the current country and society. Due to the particularity of "public", the personal information of public figures is likely to be known and used by more social public compared with ordinary individuals. Take public figure L as an example. On October 21, 2021, a notice on the illegal behavior of prostitution on the Weibo account of Ping An Beijing Chaoyang attracted widespread attention from the public. The specific contents of the information will be the illegal person in the form of "a certain name" announcement, and explain the reasons for administrative detention. From the content and form of the police report, it is completely legal, there is no disclosure of citizens' personal information, the public can not rely on this information only, specific to a particular person. In other words, the content of the article alone does not allow the recipient of the information to immediately identify the offender as specific to a particular public figure. However, in fact, most of the recipients of the information can infer that the illegal prostitute is the public figure L by taking into account the form of "surname", gender, age and geographical location of Beijing's Chaoyang District. Amid rampant speculation, the Chinese Musicians Association released the name of the public figure in a statement on October 21. On the same day, People's Daily also reported on the incident. The China Performance Industry Association also announced on Oct 22 that the public figure had been detained for visiting prostitutes. Looking through the whole time frame of the incident, although it was finally confirmed that the person who was arrested for whoring was a public figure, L got it from the media, but in fact, from the public security organ's notification and with the high popularity of the public figure, many members of the public have formed their own cognition about the subject who was detained for whoring. That is to say, no matter whether there is a media report and no matter when the media report, the public has already identified the subject of the event as L himself, and the media report only confirms people's inner thoughts. However, when the subject of the incident is an ordinary person, if the public security organs still carry out information reporting in this form, then it will certainly not cause such a big social impact. Nor is it possible to pin down a particular person in the public mind based on a few blurred pieces of personal information.

From this incident, it can be seen that the personal information of public figures is different from the personal information of ordinary people in both the use level and the protection level. The most important factor that separates the two is the popularity of public figures. Generally speaking, the higher the popularity of public figures, the higher the use of their personal information, and the more they need to be differentiated in the protection of personal information.

Therefore, it is one of the key issues in current personal information protection to study whether the personal information protection enjoyed by public figures should be the same as that of ordinary individuals, and whether the benefits brought by their popularity can be used as the theoretical basis for transferring part of the personal information protection.

2. Theoretical sources of personal information protection of public figures

Public figures are the objects of public concern because of their career, achievements, reputation, lifestyle, etc., and their personal privacy is difficult to maintain. According to the definition of public figures in Yuanzhao English and American Law Dictionary, it is not difficult to see that public figures gain public attention by losing part of their privacy rights. In essence, public figures sacrifice part of their privacy rights to win the public's general attention and gain benefits. In other words, part of the privacy rights given up by public figures are connived and even hoped by the parties concerned. However, as for ordinary individuals, they do not want their privacy to be peeped or paid attention to by others. Therefore, the author believes that the essential difference between ordinary individuals and public figures lies in the word "public". The so-called public figure is on the basis of ordinary individuals, choose to give up part of their own privacy and personal information rights and interests, so as to achieve the purpose of "public", to achieve more interests. "Public" in this context is willing to give up some privacy in order to get some economic value. Therefore, the author believes that the protection of personal information of public figures is similar to the theory of the limit protection of privacy of public figures to a certain extent, but there are also some differences.

2.1 The rationality and legality of the public right to know

In a sense, the public's right to know not only has the right to ensure the public to know what it should know, but also has certain supervision attributes. However, within the scope of partial privacy rights and personal information rights voluntarily given up by public figures, their various information and behaviors, intentionally or unintentionally, play a certain guiding role in the cognition and behavior of the social public. Therefore, when the behavior of public figures is improper or even suspected of illegal crimes, for the purpose of protecting the public's right to know and establishing a good atmosphere for the society, it is necessary to restrict the protection of personal information of public figures to a certain extent. In addition, the public's right to know, especially the right to know about personal information, is itself a part of the personality right that the public should enjoy as civil subjects. As mentioned above, Article 1036 of China's Civil Code provides disclaimers for handling personal information. This clause seems to be a catch-all clause, but in fact it also reserves the right to handle personal information of public figures for the public interest. Article 13 of the Personal Information Protection Law also stipulates that it is reasonable to handle personal information in the public interest to carry out news reporting and supervision by public opinion. Article 48 of the Administrative Punishment Law also stipulates that administrative punishment decisions with certain social influence should be made public according to law. Therefore, it can be found from the above laws that there are certain restrictions on the protection of public figures' personal information from the legal perspective, in other words, making the public's right to know more legitimate.

2.2 The self-interest of public figures

Public figures are largely by the social public "consumption" their privacy or personal information to seek personal interests, and with the rapid development of current since the media age, the appropriate "exposure" your personal information and privacy, has become the current public figures and entertainment brokerage idiomatic "eyeball" trick. Generally, the more personal information public figures voluntarily reveal, the more novel it is, the more it can satisfy the curiosity of the public, and the more public figures can obtain huge profits. Therefore, while public

figures enjoy the bonus of giving up part of their personal information, they also have to suffer the hidden danger caused by giving up their personal information. At the same time, when an ordinary individual becomes a public figure, it means that he or she has added a greater social responsibility. The more popular a public figure is, the greater his social responsibility will be. Therefore, the strong social responsibility brought by high visibility requires public figures to give up part of their personal information while pursuing their own interests. In other words, restricting the protection of personal information of public figures is also a kind of supervision for public figures to bear social responsibilities and regulate their words and deeds.

2.3 The freedom of mass media to report

Since the essence of media activities is the sharing of social information, the vast majority of media activities, such as news reporting and supervision by public opinion, are the processing of personal information. Handling personal information according to law is the right granted by the law to the media, and is also an important link to realize supervision by public opinion. With the advent of the era of "We media", mass media reports can satisfy the curiosity of the public to a large extent, and are also a good way to supervise the behavior of public figures. The freedom of news media reporting is actually an important means to protect the public's right to know and enable citizens to better and faster understand the society. Due to the sociality of public figures, their behaviors have a certain guiding effect on the society. Therefore, the completely true situation of public figures also has a certain sociality, which belongs to the scope of the public's right to know and the category of media's freedom of reporting. In other words, as long as the information about public figures is completely objective and true and conforms to the public interest, the public has the right to know. Mass media can then make disclosures based on objectively true facts of a case, even if the information related to the case may involve some personal information of a public figure. Therefore, mass media enjoy the freedom to report the objective truth of public figures, especially when it involves the social public interests and the public's right to know. Based on the freedom of the mass media, it is also necessary to restrict the protection of the personal information of public figures.

3. Conflict of interest and balance in the protection of personal information of public figures

Through the analysis of the definition, attributes and personal information of public figures, the reasons why public figures are prone to personal information problems are summarized as follows:

3.1 Conflict between the personal information of public figures and the public right to know

Public figures are widely concerned by the public because of their "public" attribute, that is, they are exposed to the public's view. The problem brought by the public's widespread concern is that the protection of public figures' personal information is challenged. Generally speaking, the more well-known a public figure is, the more identifiable his or her personal information will be. From the "Public Figure L event", it can be seen that L, as a public figure, is quite well-known both from the piano industry and from the whole entertainment circle. Therefore, it appears that when the public combines the objective notification of the public security organ, they have identified L's identity according to part of their personal information. This result would not have been possible for any of the general public. And the media's real name reports only reinforce or confirm what the public thinks. This seems to be a public figure's personal information rights infringement issue, but in fact, it is also a protection of the public's right to know. From an objective point of view, public figures already enjoy the "halo" that ordinary individuals cannot enjoy, and this "halo" can bring value benefits to public figures. The reason why public figures can enjoy this "halo" is that public figures voluntarily give up part of the right to privacy and personal information rights. Generally speaking, the more attention a public figure receives, the more money he or she can earn.

Accordingly, when public figures obtain high profits, they should anticipate that their personal information rights and interests cannot be equally protected as those of ordinary people. Because the public figures have been paid attention by the general public society, it will inevitably have certain social influence, even has certain guidance on the growth of Chinese youth. Therefore, the public and media also need to play a certain supervisory role to ensure the public's right to know, but also to protect social interests. Due to the increasingly developed network, the conflict between the personal information of public figures and the public's right to know is constantly expanding, which is essentially a contradiction and imbalance between personal rights and public interests. In the law and advocated values of our country, there is no doubt that it is legal and reasonable to sacrifice some of the individual interests within a reasonable range to protect the interests of the whole or the social interests. Therefore, based on the attributes of public figures, part of their personal information rights and interests must be transferred to social interests

3.2 Conflict between personal information of public figures and their personal economic interests

In order to get more attention, public figures often choose to voluntarily release part of their personal information to satisfy the public's curiosity and seek economic benefits. To some extent, the personal information of public figures is similar to privacy. Specifically, public figures can give up certain rights of privacy and personal information rights and interests to obtain economic benefits. That is, the personal information and privacy of public figures have certain economic value. But personal information and privacy are often violated in different ways. The infringement of personal information is often manifested as: the use and processing of personal information without personal consent or permission. Even though public figures give up their personal information rights and interests to a certain extent, in some specific cases, they do not want their information to be leaked and identifiable. But in fact, such objective relinquishment of rights and interests often contradicts the subjective undesire of public figures. It can be seen from the incident of L that L's name, age, work place, activity area and schedule can be known by the general public. To some extent, public figures objectively give up or allow this part of personal information to be collected and used by others. However, in the case of L, who was caught for soliciting prostitutes, the media and the public analyzed the case based on the personal information he had previously allowed to collect and use, and identified L as the person who broke the law in the case. This result is clearly not what L himself wants, nor does he want the media and the public to use his personal information at this time. In other words, the personal information that was once allowed to be collected and used is now a breach in its reputation.

3.3 Conflicts of interest between personal information of public figures and media coverage

The public usually have a strong interest in all kinds of information about public figures. Generally speaking, the more well-known a public figure is, the more curious the public is about his personal information and privacy. Based on this, some media have found business opportunities, that is, by exposing or leaking the personal information and privacy of public figures, they can bring attention to the media to a large extent, and then bring higher profits. For example, in the era of "we media", many marketing accounts and personal public accounts privately publish tidbits about stars for the purpose of entertainment, "attracting attention" and making profits. This kind of news often contains a large amount of personal information, and obviously does not obtain the consent of the information subject, which is not an information processing behavior for the public interest. It can be found from the case of L that, in essence, what really made this incident known to the public, and what directly exposed the case of L's arrest of whoring to the public, and made it a topic of conversation for the public, was not the reports of the public security organs in accordance with the procedures and norms, but the reports of various media. Through the media reports, the "L event" continues to ferment, bringing more public attention to this matter. It can be seen that the protection

of personal information rights and interests of public figures is also in conflict with the interests of the media. Moreover, from the perspective of specific events, when the interests of the public figures' personal information are in conflict with the interests of the media, the media will often choose to put their own interests first and infringe on the personal information of the public figures. Even in article nine hundred and ninety-nine of the civil code of our country about the proper use of the personality right, and defines "for public interest news reports, supervision by public opinion, etc, it is reasonable to use the names of the civil subject, name, portrait, personal information, such as", the clause is to a certain extent, given the media in order to avoid their duties.

4. The rule connotation of the limit protection of personal information of public figures

Although there are similarities between the privacy rights of public figures and personal information, there are public interests and the right to know as limiting factors. But generally speaking, the violation of the privacy of public figures is often between private subjects, the state is not the subject of interest. However, personal information is different. Based on the attributes of personal information and the subject involved, the state no longer appears as an independent non-interest subject, but also a party involved subject. Therefore, in view of the causes of the above problems in the personal information of public figures, the author believes that specific measures need to be prescribed at the legislative level. Different from the absolute protection of privacy, the limit of personal information protection of public figures needs to be divided.

4.1 Proportionality principle: effectively balance the personal rights and interests of public figures and social interests

The essence of the principle of proportionality is to restrict public power, but through the mutual verification of theory and practice, it is found that the principle of proportionality can also be applied in civil adjudication and other activities. The author believes that the principle of proportionality can also be appropriately introduced into the balance between the personal information rights and interests of public figures and social public interests. No matter whether the personal information case touches the administrative law question, should follow the proportionality principle. For example, in the case of L, the public security organ's notification of the matter is reasonable and legal, both from the content and form of the notification and the principle of proportion. In addition, the media's supervision of public figures is essentially an application of the principle of proportion. Generally speaking, public figures have a certain value leading role for the society. Therefore, strictly regulating the behavior of public figures and fully supervising public figures are not only protecting the public's right to know, but also protecting the public interest of the society. Therefore, the author believes that when dealing with the personal information of public figures seriously involving public interests, in order to protect public interests and the right to know, reasonable and lawful collection and use of personal information of public figures should be allowed. Moreover, the principle of proportionality should also be applied to the handling of personal information of public figures in the future.

4.2 Clear scope: the use of voluntarily waived part of the rights and interests are not liable for tort

As mentioned above, public figures often choose to voluntarily disclose part of their privacy and allow others to collect and process part of their personal information in order to obtain economic benefits. In this respect, the public, the media and even the administrative organs, within the scope allowed by their voluntary disclosure, obviously do not need to bear tort liability for the treatment of their personal information. However, according to the provisions of Article 15 of the Personal Information Protection Law recently promulgated and effective, the withdrawal of consent by an individual does not affect the validity of the personal information processing activities conducted on

the basis of personal consent before the withdrawal. This provision clearly indicates that the personal information processor cannot collect and process the personal information of the user after the individual has withdrawn the consent, but the collection and processing based on the prior consent shall not be affected by this provision. Although the personal information protection act, it mainly involves information processing and information processing problems between individuals, and the information processing is here for the enterprise, the large company, but its essence is still on the provisions of the personal information protection in daily life, whatever the case, for the processing of personal information shall follow the principles. However, the author believes that the personal information of public figures should be applied differently. That is, public figures choose to allow or indulge the public and social media to collect and process their personal information for economic benefits. After that, their personal information is highly identifiable based on the social influence of public figures. If later, due to some unexpected events, such as the "L event" used in this paper, public figures do not want the public and the media to use their personal information, the author believes that it is impossible and impossible. Before that, their personal information has already had a certain influence and identification in the society, and is well known by the public. Based on this knowledge, it has brought great material benefits to public figures. Therefore, in combination with the principle of fairness and practical operability, public figures have previously allowed the public and the media to collect and process personal information, and it should be impossible and impossible for public figures to withdraw their consent after some unexpected events that are not conducive to public figures.

4.3 Legal norms: the protection of personal information of public figures and general individuals should be further clarified

As mentioned above, in the "Civil Code", "Personal Information Protection Law" and "Administrative Punishment law", there is a difference in the protection of personal information of public figures. Moreover, it is not difficult to find that the differences between public figures and ordinary individuals in the protection of personal information in the above laws and regulations are all based on the social attributes of public figures, that is, they have a public nature that ordinary individuals do not have and have a certain influence on the society. Based on this attribute, public figures should undertake more social responsibilities and put forward higher requirements for their own moral standards. Although the personal information protection of public figures and ordinary individuals has been distinguished to some extent from the current legal provisions in China, the author believes that it is necessary to further clarify. For example, the exemption for handling personal information stipulated in Article 1036 of the Civil Code: other acts reasonably performed to safeguard the public interest or the legitimate rights and interests of the natural person. Among them, it is difficult to clarify the degree of "protecting the public interest or the legitimate rights and interests of the natural person", especially whether the personal information of the natural person can be "reasonably handled" as long as it is for the purpose of safeguarding the public interest. And "for the sake of the public interest or the legitimate rights and interests of the natural person", whether the reasonable processing of other people's personal information causes damage to other people's personal information rights and interests, whether it conforms to the principle of proportionality, the infringement of the subject's personal information rights and interests is difficult to quantify. Meanwhile, Article 13 of the Personal Information Protection Law stipulates that news reporting and supervision by public opinion should be carried out for the public interest, and personal information should be handled within a reasonable scope. It is difficult to define and quantify the boundary of "reasonable range". Whether "reasonable range" means that the personal information of the public figure can be exposed and disclosed or should be anonymized in the necessary range needs to be further standardized. In other words, the difference between public figures and ordinary individuals in the protection of personal information is mainly focused on the surface stage, that is, from the legal perspective to clarify the legitimacy and rationality of the lack of treatment, but the so-called "reasonable treatment" of the boundary and scope of clear. In

addition, once personal information, especially the personal information of public figures, is exposed to the public through the media, the results are often irreversible. Therefore, the supervision of public figures should not only grant corresponding rights to the media and other social subjects at the legal level, but also regulate the way and limit of exercising rights, instead of just treating it with vague terms such as "reasonable".

To sum up, under the general trend of gradual socialization of personal information, the personal information of public figures is often more vulnerable to infringement due to their "public" attributes. In the face of personal information rights and interests of the public figures and conflict, the public personal information rights and interests of the public's right to know and the conflict between economic interests of the individual and the conflict with the interests of the media reports, the need to properly resolve the various contradictions from the legislative level, science dealing with the personal information protection the public figures, to follow the principle of proportion, and defining the scope of public figure's personal information processing. Finally, on the system level, it is necessary to further clarify the protection of personal information of public figures and general individuals in legislation.

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