

Consent Study in Europe : A Study Case to Understand Development of Digital Consent in UK

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ABSTRACT

The securitization of cyberspace has been specter to the political studies in various countries. This article focusses on the dynamic of *speech act* on implementation consent and its relation to the theory of *lateral pressure* formulated by Nazli in studying cyberpolites. Since 2018 European Commission has implemented GDPR as a basic law related to data transfer, collect and process (TCP). This policy has brought the fundamental problem to the activity conducting by the state and private sector. Moreover, it was also criticized that this policy has brought to the discrimination of algorithm that came to bias to the minority group. In speak of Methodology, we used qualitative research of 418 article with keyword 'consent' focusing in Social and Humanities Science on Journal Sage, after manually analysis found 146 articles related to the consent study and social science. The final project is to find out the significant tendency on how Europe has securitized GDPR through *speech act* by corelating it to the Lateral Pressure Index. The potential implications of the finding could give theoretical preference in formulating data protection base policy.

Keywords: Data Protection Policy, Digital Consent, Europe, Lateral Pressure, Speech Act.

INTRODUCTION

Studying consent is remarkably interesting because it created fundamental challenge for social research. These challenges have been discussed conceptually, methodologically, and technically for international relations research (see Choucri, Goldsmith, 2012; Choucri, Clark, 2013; Choucri, 2000; Metzger, Tucker, 2017; Hansen, Nissenbaum, 2009; Choucri, Clark, 2018; Balzacq, 2011). The word of consent came from the old France literature (Wolf, 2018) 1300 years ago, in Latin *consetire* which mean feels together, agree or giving permission, where human (patient) must give expression when doctor examined their body. Wolf demonstrated in this situation where a patient refuses to give consent operation as she only gave to examination and discovered the patient need a complex treatment of medication that need a longer hospitalization which brought this situation into the court. Therefore, informed consent becoming one of the major aspects before doctor and nurse wanted to do operation with the patient (Sabuvrova, 2020; Fetters, et al. 2007) or to treat patient with psychological syndrome (Bravo, et al. 2003; Gilbert, et al. 2020). Moreover, study of consent lately leads to the development of modern medical industry where it has a link between human and modern technology include in every aspect of human privacy behavior.

Consent study also created the discourse on interdisciplinary, such as media and medicine like study of twitter and sexuality violence which get the effect into public policy (Caster, 2020; Maricout, et al. 2021; Hindes, et al. 2020, Cary, et al. 2022), or in the use of electronic informed consent (Patel, 2019; Isaacs, et al. 2020; Simon, et al. 2021) for medical purposes. On education sector consent also take serious discourse, where parents must give consent if their children becoming subject of research (Pickles 2020). Consent also discussed in political sphere (Herman, Chomsky, 1988) in theory of *manufacturing consent* on the foreign policy or in philosophy studies (Maglaras, 2013; Riley , 1973; Martin 1980) where media can play pivotal role to steer domestic politics, especially when it is come to interconnected world. This evidence gave us a picture that consent is inherent in every human activity both offline and online.

Digital consent has been tools in modern civilization to get the approval from people (audience) to access information provided by the platform, such as web site, social media, healthcare system or organization. Through this mechanism people are considering agree in every interaction provided by the platform. In some cases, the interaction by using these platforms were store in database in several ways, for example in pseudonymization. Pseudonymization are process identification data which meaning to hiding the real data provided by user or people to maintain the security. By using this technique, another unlawful subject that wanted to access the database cannot be opened without several keys that already prepare by data holder. In Europe it has been regulated under GDPR which came into force in 2018.

In her articles, Reventlow share her study of how court role in protecting human right in digital age, first came out from Shreya Singhal v. India, and Max Schrems v Facebook Ireland Ltd. In her point of view strategic litigation was needed when faced technology that always developed from time to time. Improve regulation was one of the many ways to promote digital right for everyone.

However, not all the country or people had same experience by implementing digital consent in the right manner. Neviccka's share the discrimination of the marginal communities like Roma pupils in accessing decent education through virtual video conferencing tools in Slovakia (Nevicka, 2022) or problems with ethical issue in using Twitter data API for social media research for example Williams, et al. 2017, Roberts,

et al. 2018, and Innes, et al 2018, which leads to *nudging privacy* Acquisti, 2008 and Reventlow (Reventlow 2020) with her courts analysis in protection human right as part of the root of digital privacy. In her articles, Reventlow share her study of how court role in protecting human right in digital age, first came out from Shreya Singhal v. India, and Max Schrems v Facebook Ireland Ltd. In her point of view strategic litigation was needed when faced technology that always developed from time to time. Improve regulation was one of the many ways to promote digital right for everyone. Moreover, recent study shown that people use informed consent (or digital consent) were often not read carefully when they agreed to give their consent in online media (Kreuter, et al. 2020). All of these arguments lead to the vulnerability of data protection regime.

This article presents an analysis of consent on research focusing in *speech act* bag words that usually appears in mainstream new media and traditional media had relation with the pressure in three layers of lateral, which is physical, logical and people layer. The central argument of the article is obsolesced regulation, external migration waves, limitation of natural resource and development of terrorist attack (cyber-criminal) and problems with personal identification in registering citizen would create dynamic in Europe as consent was the main topic of this research.

The History of Consent in Pre-Digitalized world -

A long story of implementation consent as a legal basis in digital world has been described by Edenberg, et al 2019, where in some countries has different situation and legal standard. Polarization the use of consent has been tools in each regime across European continental and the world from time to time to manage the political domestic problems. However, in our point of view there is two basic standards when we are discusses in the definition of consent. First is European Standard, some experiment shows that there is a relation between Data Protection or DP with the appearance of digital consent and it is also related with massive disruption on the old market to digital market. In the middle 19 century

the role of consent did not so powerful as today. Back in 1977 Germany was the first European countries that passed data protection law through Federal Data Protection Act where it already points out the distinction of Public and Private sector, and that is why the terms of “data subject” has been massively use in European continental. Followed by France in 1978 under *Commission Nationale de l’Informatique et des Libertés*, or CNIL had pass Data Protection Laws to accommodate personal data of their citizen in order to keep under secularized. The United Kingdom becoming the most lately big countries in European continental that pass Data Protection Act in 1984.

The Second standard is, United States of America as the first outside European continent that preparing its citizen with the term of “consumer privacy” under a progressive movement with Privacy Act of 1974. In Europe as we already know that always talk in the manner of “data subject” in United States not much the same, they identified privacy act into terms “personally identifiable information” or PII. The laws provide multiple explanation of this term. With some branch of regulation such as Electronic Communication Privacy Act of 1986 (ECPA) which government are restricted to wire tape of telephone calls by using computer, the National Information Infrastructure Protection Act 1986 (NIIPA), the Privacy and Personal Information Protection Act of 1998, and Information Security Management Act 2002. The latest well know is California Consumer Privacy Act 2018 (CCPA) which are more closely with European General Data Protection Regulation. However, all the terms that using in United States are closely with “Consumer” and “Personal Information” which mean the philosophy root are based on the market-oriented rather than state-oriented like in Europe.

Consent (or informed consent) has two main foundation which first located on “moral concept foundation” and “legal theory foundation.” (Faden and Beauchamp 1986) when it comes to moral concept philosophy it works on how to define right and wrong which usually came from culture or institution from generation to generation that consist from two parties (Permission or non-permission) (Edenberg and Jones 2019). The concept of morality offers principles for the development that embedded in public morality and policies. These principles addressed and analyzed as respect for the autonomy, beneficence and justice. People should be free to choose and act without controlling imposed by other parties. However, if the principal independent or self-directed autonomy could potentially harm public health or political sphere it may be justifiable to restrict autonomy exercise even by state intervention. The legal foundation on consent enforces by moral principles by common law. The law relies on moral principle to delineate rights and duties in law case. Common law depends on constitution and statue of every state or country which make this law is different one from another. That is why we could see the approach of enforcing justice (on consent) is different.

Report from (Korff 2022) Douwe, show to us that in Ireland *Garda*, police had to give routinely to victim support only in a **written consent**, which mean Ireland consent clearly cannot be implied it should be **explicit consent**. Meanwhile in Portugal, Spain, and Sweden consent should be **unambiguous**. In Germany and Italy consent should be in principle in writing (rather than “mouse-click”) that’s why to follow this principal EU Directive using unambiguous term with the use of ‘opt-out’ rather that ‘opt-in’. In France quite different, which is consent as a valid process non-sensitive data can only work under “**freely given, specific and informed**” where data subject in this meaning should voluntarily giving their data.

Problems arises when generating “moral core” on the internet or digital system which logically design by the domination of principles people to people relation in the country which leads to automatically design of consent, because different legal framework could

bring international conflict when defining “moral core” of digital consent (Or perhaps decision making of policy in regards on aggregation of majority). The principle of autonomy, beneficiary and justice in moral concept led to clash of civilization on digital age. Legal framework of consent has developed various ways in different countries and regions. These different contested in international law. That’s way the EU has new term signed in 1950 in Rome as “*General Principle of Community Law*” under the base Fundamental Rights by the European Convention for the Protection of Human Rights and Fundamental Freedom. The polarization interest of consent (and Personal Data) found in directive of EU has been stated Douwe Korff, 2002 (Korff 2022) on his report consisting comparative summary of the national data protection laws in Member States of EU under the directive 95/46/EC shown colorful terms in implementing consent.

In directive 95/46/EC “consent” had already stated in art. 8 (2) Protection of Personal data. However, in terms of implementation there are distinction between member state. See table 1.

Refers to definition of “consent” based on directive the definition of consent is “the data subject's consent' shall mean any freely given specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed.” (art. 2 (h) directive). However, before we jump in to the definition of consent, better if we search the nuance of political, social and environmental terms in development of data subject as a consent issue and the next question is how the Europe could have the definition of “personal information” in a massive scale using in their regulation? In what circumstances identification of personal became the main object in the study of personal data and how consent became the alternate legal ways to collect information spread across the cyberspace.

The UK Case

UK case in formulating “moral core” according to Edward Higgs (Higgs 2011) consist with four stages of principle of indentifying person in English, For Edward Higgs (Higgs 2011), there were many ways to learn “Personal Information” or “Personal Identity” history in early modern state, which is dominated by the process identification of person separate in four stages of identification in Europe, at first stage identification person in early modern England, second identification person in the era of industrial nation 1750-1850, third identification through “dossier society” from 1850-1970 and last stage were indentifying person by “digital person” from 1970-2010 and present. Edward Higgs describes “personal identification as a paradox” in the western society, at one side people has more ways in identify person to prove who they are, but at one point it has much less secure which sometimes leads to the rise of rogue in one society. The identity theft, imposture of identification in the royal families, or imposture in paper world had most credential moment of the personal identification. All of the criminalization of personal identification creates history of identification techniques into *Gemeinschaft* und *Gesellschaft* at the end of surveillance. The last of process identification make at one point which group do you fall into? Personal identification from time to time change following the “moral concept principles” of the *Gemeinschaft* concept of Ferdinand Tonnies theories. As the European community nowadays has move from the principal of *community* to the principal of *moderen gesellschaft* of *society*. According to Tonnies idea that relations that build in the city quite different than in the rural areas.

In sixteen centuries, process identification by authority based on how the appearance of the individual, in the royal families sometimes depends of the clothes or jewelries of the people wears and leads to identification of “poor” and “rich” group (Higgs 2011). Some

development changed following the new era of technologies such as Industrial technology and “Dossier Society” during rapid movement of trade and economic.

During the shifting from “Dossier Society” to 1970 – 1984 “Digital Person” in UK, process of regulation personal data Act colored with a series phenomenon that cannot be consider an easy way (Manton 2019). The political relationship between government data gathering and population registered became bias, as the British political culture have been clear that privacy means the absence of population registration (Manton 2019). Besides of that, the political turmoil in UK has lead to series of instability. In this sense, nobody would realize that Margaret Thatcher legacy in human right protection on digital world today started on her period.

Lateral pressure and Speech act dynamic in UK 1970 – 1984

The lateral pressure theory developed by Choucri and Agarwal (Choucri, Nazli 2000) (Choucri, Nazli; Clark , David D. 2013) (Choucri, Nazli; Clark, David 2018) (Choucri, Nazli; Goldsmith, Daniel 2012) gave us enlighment to study the development of political dynamic in Britain. This pressure located on three basic asumption of layer, such as Physical, People and Logical combine with the securitization of copenhagen school of securitization.

The pressure on the physical layer consist with the development of telecommunication industry where on that time dominated by the single operator like General Post Office or GPO. As study by (Eliassen and Sjoavaag 1999) Kjell who stated that the domination of Post and Telecommunication industry lead to the developmen of CPE or costumer premises equipment, where CPE manufacturer telephone supply form this sector mainly (Thatcher 1994) (Eliassen and Sjoavaag 1999). The competition of European CPE has gain its momentum in innovation with American and Japannese. This competition create a regulatory reform in industrial relation in 1960 and 1970 lead to transformative changed in relation between state and labour class, which some scholar said as an “competitive capitalism” (Howell 2000) other call this as “Rationale for Liberalisation” (Eliassen and Sjoavaag 1999). This competition leads to the fundamental changes in Telecommunication industries and the monopoly of british GPO come to and end in 1969 when GPO become public corporation and the staff were no longer paid as a civil servant but employed by regular contracts. On physical lateral pressure, we can see at that point the development of technology came to its limit. The ‘plain old telephony services’ (POTS) which under monopoly by Public and Telecommunication Operator (PTO) came to pressure as the new chalanges appears from the manufacturing especially in computer industry (Eliassen and Sjoavaag 1999) from the external such as IBM. This situation was read by the conservative party by promoting low tax and monetization to create the new industrial sector of telecommunications. The regulation has became obsolesced and need something fresh and new for the wave of rising generation in UK.

Meanwhile, the logical pressure by agarwal focused on the development information and the platform layer (Choucri, Nazli; Clark, David 2018) where it was provided same concept by the copenhagen school on speech act (Balzacq 2011) where sometimes move to the digitalised industry (Hansen and Nissenbaum 2009). The phenomenon of high unemployment rate, racial tension, and the policy of high– tax provided by UK labour party under Callaghan administration brought some serious problems to the stabilization in UK domestic politics. This was what Balzacq called as a speech act that combined with information provided by the actors (Balzacq 2005). The competition of Conservative and Labour party in the middle 19 century has brought UK into some dynamics in formulation

policies to the country. The slogan of 'Free Market and Strong States' that considered as a Speech act has made the BT British Telecommunication reformed its institution in 1981 with separated telecommunication and post services. Despite of that, the pressure leads to the legislation of Telecommunication Act 1984 and the formation on UK Data Protection Act 1984 make the new beginning of data protection regime in UK.

In speak of consent, the both political party in UK were agree that need the change of communication bussiness which lead to the new ways of PTO produce CPE and privatised them. This phenomenon we call by "political consent" on the new framework of telecommunication services. The political consensus between left and right on the existential threat on the higher unemployment rise and the crisis of austerity policies was framed by the morally embedded pairing of promises national policies with idea of national emergency. The buraucratics ineffeciencies in created a strong commitment from the opposition party for the status quo to regulate effeciency. However, as Martin lodge (Lodge 1999) saw regulation on three perspective, stated that regulation just another way to maximising the resources of the actor:

Actors promote regulation to further their self-interests such as the protection of market share, re-election chances or bureaucratic inefficiencies, called 'slack' Politicians, solely interested in their re-election by securing votes or resources, will offer regulation to those who provide the highest pay-off. Thus, policy outputs will favour 'low cost' groups rather than fragmented constituencies.

The criticized on buraucratics inefficiencies were an output to reform the buraucratic in various ways, some stated effectiveness could be reach by improving cooperation by public – private partnership or PPP (Chowdhury and Chowdhury 2018) or through European Integration into effectiveness labour market (Bentley 1996) (Green and Hasluck 1998). Nevertheless, the statement from Hodgson (Hodgson 2004) of 'Project work' on *Buzzbank* where in 1980 management sector banking has created new role in marketing techniques under the name "call-center technology" and rapidly growing so fast in the implementation of the marketing in the banking industry of UK (Hodgson 2004). In spite of that, the man who at the gave a speech in UK privacy was Harold Wilson in population registration. Obsolesced regulation, external migration waves, limitation of natural resource and development of terrorist attack (cyber-criminal) and problems with personal identification in registering citizen

Some scholar argue that the policy on telecommunication not came from domestic pressure but also from external environment. There were three component pressure. From the side of labour party UK a conflict with the Northern Ireland. Brought the decline of power by the "Iron Lady" which started by the closed of private Coal Mine in 1985

In Europe on 1995 was the era of enlargement of EU. During this time period (1990-2000) as we already know that the dissolution of USSR and the fall of "Berlin Wall" became the most influential moment for European historical politics. The development of "moral concept" in terms of data protection started in this era under the charter of fundamental right of EU. From the table 1 we can see the moral principle lies in the local community from 15 country that belong to EU almost 75% of the country absorb the definition given by direction 95/46/EC. Meanwhile UK together with Ireland has own definition of Private and Family Life like privacy and Privat Family Life. In addition, during the WW2 the registration in civil society has radically change (Manton 2019)

However, according to Ellis, (Ellis and Oppenheim 1993) the development of data subject in Europe were also influence by the US on that time to increase the attention on data

protection in Europe from UK point of view. Data protection became popular wisdom in legal system as does council of Europe implemented “fundamental right” back in 1948 to unite Europe parallel with The European Convention on Human Right 1951. Under the shadow of USSR Europe called 713 delegates from 16 countries to create charter of human right for Court of justice adequate sanction to implementation this charter.

UK Data Protection Act 1984 was the latest legislation in Europe related to data protection came to legislation with some obstacles. However, it consist with the debate between personal data privacy and freedom of expression. It recorded that UK attempts two times to validate regulations, one through British section of the international Justice in 1970 and second through Committee of experts on Data Protection in 1976 which came to failed. As in 1968 – 1970 the Council of Europe’s Committee of Experts on Human Rights conducted survey with regard of human right and modern scientific and technological developments with result that development in this area did not provide sufficient protection for individuals. Finally, the Council of Europe produce two resolution related with privacy and databanks, one for privacy and second for databanks in 1975. Protection Of the Privacy of Individuals Vis-A-Vis Electronic Data Banks in The Public Sector - Resolution (74) 29 Adopted by The Committee of Ministers of The Council of Europe on 20 Sept 1974 and Explanatory Report See table 2 for the illustration of Data Protection Act and table 3 for process personal identifying of tools in UK.

The main focus of the Council of Europe on that time was on the processing data abroad and data flow related to study of databank regulations, which at some point related to financial sector. Later in 1976 the

Based on the Article 29 Working Party (A29WP) European Commission under GDPR has introduce guideline to provide transparency in order to process data in fair processing and has release some principle according to their measurement of how controller and processor should work. Consent in these article A29WP only see as a lawful basis if data subject is offered control and have a choice to accepting or declining the terms offered. According to Edenberg, 2019 “consent will not be considered freely given if it is a part on non-negotiable terms and determines the functionality of a site service”. So under this regulation (Rectical 42 of GDPR) all application or third parties software that usually available in one of the services provided by digital company on the smartphone or computer considered not a lawful basis. In accordance with Council Directive 93/13/EEC_ a declaration of consent pre-formulated by the controller should be provided in an intelligible and easily accessible form, using clear and plain language and it should not contain unfair terms.

As stated by Schwartz 2014, United States is merely put the domination of Personal Information instead of the Data Subject into the article which led to the invalid of Safe Harbor by European Court of Justice on 2015 provided by Maxmilian Schrems on the judgement. It came out with the series of fine provided by EU GDPR law for all United States based company like Google, Apple, Facebook, Amazon, and Microsoft (GAFAM) from 2018 until 2022 made the biggest fine ever in history of privacy regime. Which show the domination of consumer right in the field of digital age.

The problems occur first of all, as we see in the development of digital consent provided by algorithmic solution on their system stated by François-Pellegrini, s we can see from the dialogue provided by https://www.youtube.com/watch?v=zi_t4A-8SVA&t=612s *Comment les traitements algorithmiques interfèrent-ils avec notre vie privée?* where in the conference stated that algorithm play important role in processing data related to individual terms which sometimes lead to bias information. <https://www.lemonde.fr/blog/binaire/2017/03/27/les-algos-ni-loyaux-ni-ethiques/> vice

president of CNIL which related to privacy and Pasquale Stanzione as a President of Italian Data Protection Authority stated that there was a vulnerability factor when it comes to data protection. The critics stated by Pasquale consist with vulnerability subjects that coloring implementation of data protection regulation in terms of decision-making processes, such as Minors, Migrants, Sick People, in Mates, or any cases belonging to minorities whose fragility by nature or circumstance in the face of power algorithm. Meanwhile, Williams et al. 2017 in his articles gave us insight that there was a serious problem in harvesting data in all Application Programming Interface or API which available on most of all big tech company like Twitter and Facebook. API for some scholar as a tool for “invisible actor” to provide the audience for digital media environment (Lahey, 2016).

In the development of market and businesses, the main interest is located in the individual, how people spend their money, who people see their fans, what items people like the most, etc. has created personal data and personal information much like a gold in industrialized 4.0 and big data becoming relevant investment in each multinational corporation, and need systematic regulation from legislation norms to the supervision of data management (Zhu 2022). However, some actors with highly skills operating these data without paying attention on the ethics of processing data (Edenberg and Jones 2019; Fuller 2019; Giglietto and Rossi 2012; McStay 2012; Hull 2021; Williams, et al 2017). Many people assumes that API are “public data” where we can easily research or collecting them without noticing data subject. Data processor and controller should provide personal information into a consent as a basic legal in digital age.

The Flow of Regulation of Data protection Act 1984 UK

In 1948 The Council of Europe (CoE) has declared a Universal Declaration of Human Right it has a study case with article 12 where in discussion there was no arbitrary interference with privacy and it was added with European Convention on Human Right in 1950 under convention for the protection of Human Rights and Fundamental Freedom. With a support from UN the human rights also provided with declaration on Convenan on Civil and Political Rights. The United States of America also supported the Civil Rights in 85th US Congress with Civil Right Act in 1957, these phenomena also got intention with International Commission of Jurist in 1967 with the confresnece Right of Privacy and Rights of the Personality. After that the UK has Report regarding a Privacy and Law in UK in 1970 with the court has possible implication of the growth data bank and safeguards where the report was to seek and give individual the kind of protection. After a while the Younger Committee responded with protection by changes in law, protecting by creation of administrative control, and protecting by persuading organization to self-discipline. In around 1968 – 1970 there was a survey from CoE committee on human rights.

The Europe responded this matter of civil right with some regulation such as in 1971 appears Sub Committee of the European Committee on Legal Cooperation under Civil right aspect of the right to privacy effected by modern scientific and technology. Two years after that Council of Europe Committee of Ministers has Resolution on the protection of the privacy of individuals vis-à-vis electronic data banks in the private sector. Where in Annex 1 on resolution 74 (29) on Store Personal Information in lawful and fair means, provided by the private area 1 on resolution 73(22) on Electronic Data bank equipped with security.

In 1975 European Parliament created draft in calling commission to Prepare Draft Directive on Data Protection. In 1976 the European Commission has created the group expert related to data protection submitted to the Data Protection (Lindop) Committee,

working papers of the committee, drafts, and a copy of the report. The committee was set up in 1976 to advise the government on means to safeguard the privacy of computer data in the public and private sector. In the same year, the committee of Data Protection has created some important points such as 1. Protection of Privacy in relation to processing data abroad and transborder data flow. 2. Carry out a study on data banks regulations. 3. Examine problems relating to the professional ethics of computer experts.

The Draft of Data Protection directive suggests that no harmonization on the broad committee. People can virtually ban transborder dataflow and the terms adequate level of protection was not clearly stated Council of Europe Convention. That's why in 1979 Council of Europe's Convention of the 28th of January for the Protection of Individuals with regard to Automatic Processing of Personal Data under Committee of legal co-operation and Commission of Ministers and gave recommendation in 1981 under Council of Europe Convention for the protection of individuals with regard to automatic processing of personal data and finally produce an act in 1984 which is the UK data protection Act.

Table 1 History of Identification Tools in UK

Years	Country (Name Company)	Core business	More Specifics
1978	DHSS (Department Health and Social Security) UK	Provide national records insurance contribution	
1980	Inland Revenue UK	Tax Benefit	
1970	US National Bureau Standard	Automated Fingerprint ID	BISS (Base Installation Security System)
1970	Calspan Corporation	Fingerprints ID System for Customers use in Airports. Etc.	Aerospace's and Defense
1981	Morpho or Idemia Sagem Safran (France)	Automated Fingerprint	Face Recognition, Iris and Fingerprint (Using in Mali for Passport)
1984	UK National DNA Database	DNA Profiling	Case R v Marper and S 2004
1988	European DNA Profiling Group	DNA Profile sharing	The purposes for criminal investigation

The Speech Act to define Data to protect

Max Schrems 1 and 2

Under the contribution on the history of Max Schrems, we had the enlightenment that privacy had become serious problems on right of access to personal data provided by EU. He reported and did the complaint to the Irish Data Protection Commission (DPC) in 2011 and in 2014 Max Schrems I also made a complaint to Irish Data Protection Commission. Max Schrems in first annual meeting stated that *US-EU safe harbor principle* has violated directive 95/46/EC in regards with not provided adequate protection on the *US-EU safe harbor principle*. So the transferring data from US to EU considered not legal. As the consent of transferring data outside or inside from US to EU not taken. The second Max Schrems he was complaint that on 25 May 2018 under the scheme of GDPR complaint against Google and Facebook called Data Protection Commissioner V Facebook Ireland and Maximilian Schrems related with standard contractual clauses (SCC) digital consent became more important for the next future.

Edward Snowden case

Another speech act was from Snowden Case on his report on highly classified information provided by him. The Snowden case gave us understand that speech act was focus on the global surveillance provided telecommunication company. From that point of

view we can understand that the telecommunication played an important view in related with the personal data. We know that the telecommunication company would give us benefit from the perspective of economization but very important on the security procedure as part of data protection.

Cambridge Analytica (and Facebook Case)

Under the Cambridge Analytica all of the information related to digital assets, data mining, data brokerage and data analysis during the electoral process. The Cambridge analytica provided miss information related to data of their electorate processes. Under the Ted Cruz and Donald Trump presidential campaign as well as the referendum on European membership. The data scandal has been business practice had acquired and used personal data about facebook users to discredit politician. The personal data became more important in the near future. The methods of Cambridge Analytica a button likes can be analysed under the psychological targeting in order to influence their attitudes emotion and behavior of the user. Reported from the Guardian, stated that Cambridge analytica used psychological data derived from million facebook user without permission or knowledge of the data subject.

The Lateral Pressure on Logical and Physical Layer

On People

High Unemployment April 2014 in Brussels make the individu in the European political system party find a way to get the achievement from the pressure. The situation was created by the unemployment just find other solutions in European continental. Moreover, the rise of far-right movement 2015 in France has created another spectrum on the European country. As the effect of the war in Libya, Syria and Yemen. the individu also wanted to have a better job when they land was under fire because of the leader from outside the country. High Migrant to Europe in 2015 such Italia, Macedonia, Greece, Hungaria and Egypt created the pressure more realistic to the individu. This phenomenon has created some series of attack in some European country like, Protest in Iceland regarding the Panama Paper 2016, Berlin Truck Crash in 2016, Bastille Attack on France in 2016 and Barcelona attack in 2017.

On Resource

High Price Natural Gas from Russia to Europe created unpaid bills on Ukraine, the situation came to escalation of natural gas become deficit and all resource to survive in the winter became disruption. The higher corruption in Ukraine created a fundamental challenge to European country.

On Physical

Terrorist attack in France in 2015 had a serious pressure from inside the European continental are the closest sample in regards with the physical issue, the series of bombing like in Brussels Ankara dan st Petersburg has make physical sector became target on the people.

CONCLUSION

This phenomenon has shown us that even though GDPR as a modern regular policy to manage the spread data flow across and outside the Europe related to EU citizen, the nature of data harvesting in the context of informed consent is still debatable especially for minority group. Based on those problems we can conclude that there was a glitch in relation between human-technology interaction in modern world. When talking in data research, consent play pivotal role by some ethic scholar, there are plenty research ethic in using consent to subject of their research. It was not confusing anymore why from 146 articles collected from Sage

journal, about three-quarter of the literature talked about health and sexual consent, especially related to the human interaction with medical treatment of the human body which is categorized as a private.

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