

Amendment threatens democracy

Written by Taipei Times Editorial
Saturday, 24 April 2010 08:32

In its second reading of the amendment to the Personal Data Protection Act (個人資料保護法), the legislature passed the new, expanded version covering medical care, genetics, sex, health checks, criminal records, contact information and financial situation, as well as social activities and other personal data.

In addition, media and elected officials publishing personal information must obtain the approval of the party concerned before doing so. Even if it is necessary and in the public interest, one cannot identify the individual concerned.

Violators face criminal charges or an administrative fine, and compensation in a civil court case may reach NT\$200 million (US\$6.4 million).

Maybe legislators added this text because they are tired of sensational gossip, or was it because they want to prevent other elected representatives, media outlets or pundits from exposing irregularities?

They seem to care little that there are no examples of such legislation in other countries, or that such a law will place severe restrictions on the media.

According to Article 2 of the amended law, no information about individual activities, including “social activities,” may be “collected” or “obtained” by anyone, including media outlets, without the prior consent of the party concerned, even if the activity takes place in public.

Treating all individual information as secret ignores the fact that the right to privacy is not unlimited and is not an absolute right. When individual and public rights clash, there must be legal room to balance the different interests, rather than always placing individual rights and interests above all else.

According to the amendment, media reports or footage taken without the consent of the concerned party could result in a lawsuit and a prison sentence or an astronomical fine.

Media reporting will be significantly restricted and the media will no longer be able to protect the public's interests or fulfill the role of the fourth estate.

Individual information as defined by this amendment does not differentiate between private and public individuals, public and private affairs or public and private activities. Public institutions alone will be allowed to collect and expose individual information without the approval of the individual concerned.

Under Article 6, public institutions can use gathered individual information to protect national security or promote the public interest.

This flawed law gives officials a free hand to do whatever they want, while the public must remain quiet.

Amendment threatens democracy

Written by Taipei Times Editorial
Saturday, 24 April 2010 08:32

Even more serious, the individual social activities protected by this amendment include the activities of government officials. In other words, if a reporter interviews an official but does not obtain explicit approval, the official cannot be named. If the official is unhappy with the report, they can then sue the reporter and demand compensation.

The media have to surrender unconditionally, give up their supervisory role and become government mouthpieces, while the government can do anything it wants without fear of media criticism.

This flawed and unconstitutional piece of legislation will destroy Taiwan's hard-earned freedoms of expression and the press overnight, effectively demolishing a cornerstone of Taiwan's democracy and freedom.

Until the amendment has passed a third legislative reading, there is no damage done and there is still time to change the amendment.

The legislature must listen to public opinion and immediately suspend the current amendment and instead wait for the Cabinet to submit a new version during the next legislative session.

If the legislature proceeds with a third reading of the current version, our last hope is that a constitutional interpretation by the Council of Grand Justices will protect freedom of expression in Taiwan.

Source: [Taipei Times - Editorials 2010/04/24](#)