

A Comparative and Doctrinal Analysis towards the Investigation of a Right to Be Forgotten in Hong Kong

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Abstract : Memories are good. They remind us of people, places and experiences that we cherish. But memories cannot be changed and there may well be memories that we do not want to remember. This is particularly true in relation to information which causes us embarrassment and humiliation or simply because it is private - we all want to erase or delete such information. This desire to delete is recently recognised by the Court of Justice of the European Union in the 2014 case of Google Spain SL, Google Inc. v Agencia Española de Protección de Datos, Mario Costeja González in which the court ordered Google to remove links to some information about the complainant which he wished to be removed. This so-called 'right to be forgotten' received serious attention and significantly, the European Council and the European Parliament enacted the General Data Protection Regulation (GDPR) to provide a more structured and normative framework for implementation of right to be forgotten across the EU. This development in data protection laws will, undoubtedly, have significant impact on companies and co-operations not just within the EU but outside as well. Hong Kong, being one of the world's leading financial and commercial center as well as one of the first jurisdictions in Asia to implement a comprehensive piece of data protection legislation, is therefore a jurisdiction that is worth looking into. This article/project aims to investigate the following: a) whether there is a right to be forgotten under the existing Hong Kong data protection legislation b) if not, whether such a provision is necessary and why. This article utilises a comparative methodology based on a study of primary and secondary resources, including scholarly articles, government and law commission reports and working papers and relevant international treaties, constitutional documents, case law and legislation. The author will primarily engage literature and case-law review as well as comparative and doctrinal analyses. The completion of this article will provide privacy researchers with more concrete principles and data to conduct further research on privacy and data protection in Hong Kong and internationally and will provide a basis for policy makers in assessing the rationale and need for a right to be forgotten in Hong Kong.

Keywords : privacy, right to be forgotten, data protection, Hong Kong

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