

Privacy and publicly available information – an analysis of the common law and statutory protection in Hong Kong

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*The emergence of different forms of cyber technology has effectively transformed how information is disseminated and abuses can be done effortlessly. A person may voluntarily upload pictures or other information about himself on social media but he may not consent to an investigator digging information about him albeit information published voluntarily by himself in the first place. The same goes with personal information disclosed by mandatory means. Whilst it is wrongful to publish or disclose private information, the position may not be so clear in relation to publicly available information. Can a person disclose or publish private information of another person when such information is available to a certain category of people? Can a company compile personal data of litigants involved in bankruptcy proceedings and transfer such data to employment agencies for a fee? This article seeks to identify available actions in Hong Kong both under common law and the Personal Data (Privacy) Ordinance. It further analyses the existence of the so-called 'right to be forgotten' under the Ordinance focusing on two recent Hong Kong decisions on publicly available information. It compares with the position in the EU and concludes with a proposal to strengthen protection in these areas.*