Anna-Maria Piskopani:

Ethical considerations on "refreshing" digitized reputation by changing one's name

Abstract:

In 2010 Google Chief Executive, Eric Schmidt, predicted that people will eventually be allowed to automatically change their names on reaching adulthood to escape their online past. This article attempts to follow up on such an extreme scenario in order to demonstrate the difference between erasing scattered digitized information about people's lives and changing personal names as a method of protecting one's reputation and identity. Such a suggested identity-erasure raises not only considerable legal and ethical considerations but also reveals an emerging stimulating debate on how the law can protect individuals from becoming their worst enemies, "haunting" them in the form of automated digitized narratives.

Agenda:

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- Relevant publications:
    - Piskopani Anna Maria L. Mitrou, Facebook: Reconstructing communication and deconstructing privacy law? (4th Mediterranean Conference on Information Systems. Athens 25-27 September 2009).

Introduction

In 2010, Google Chief Executive, Eric Schmidt, predicted that people will eventually be allowed to automatically change their names on reaching adulthood to escape their online past[49]. In other words, he suggested that an adequate measure to protect one's reputation and informational privacy is to periodically alter one's name. Eric Schmidt referred to the example of teenagers who, while online and unaware of the possible consequences that extended exposure can have, add photos depicting themselves in intimate moments expressing extreme or controversial opinions. In their early 20s they realize the impact of such exposure to their future professional and private lives. According to Van der Hoeven's classification of harms those teenagers might experience: a) discrimination, since they can be singled out by certain social groups on the basis of misleading or incorrect assumptions based on past shared online content, b) injustice, since their personal information presented in one context can be used in a significantly different one and c) restriction of their moral autonomy, since their options for self-presentation can be limited due to the omnipresence and pervasiveness of misleading and erroneous personal information[50].

But those harms do not threaten only reckless teenagers. While in a Web 1.0 socio-environment, internet users were pursuing anonymity and using pseudonyms in the majority of their online interactions, in Web 2.0. that norm has changed. Gradually it has become more common for users participating in various social networks to use their actual names. While the rapid digitization of information in most Western societies, i.e. Big Data Practice[51], has multiplied the amount of information discovered by searching one's name in a search engine, occasionally without any prior decision by the individual and without his or her awareness of those research results. The importance of erasing such information is augmenting when gossip or a false rumour is spread, when people are wrongly accused of a malicious act or crime, or are involved in an unfortunate event. So is there a new public demand to "refresh" one's digitized reputation?

Two years before the proposed EU's Data Protection Law Reform and the following debate about the implementation of a right to erase or abstain from further dissemination of erroneous or embarrassing data, the Google Chief Executive suggested another more self-regulatory path so as to resolve an increasingly troubling issue. Instead of imposing obligations on the user-generated content companies in order to minimize the negative consequences of online exposure, he has placed the burden of managing their digitized reputation on people themselves.

But what does it mean actually to change one's name? Is it just a typical bureaucratic legal procedure? Searching someone by his or her name in search engines or viewing a 6-year-old profile in social networking sites such as Facebook amounts to a chronological narration of a personal life-story. Changing one's name on reaching adulthood means beginning a brand new digital life. But the peculiar emerging situation is that the old one is not erased. The two selves coexist. A person's digital self as well as the digitized narration of their life is divided in two.

Modern philosophers such as Mac Intyre, Bruner, C. Taylor and especially P. Ricoeur, among others, have argued that not only do we exist in a story-telling world, but our very selves are constituted by the stories we and others tell about ourselves. As it has been pointed out by Ricoeur, lives like stories have a trajectory through time. What comes before affects and, to some extent, determines what follows in one's life[52]. This trajectory

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[49] http://online.wsj.com/article/SB10001424052748704901104575423294099527212.html

[50] Information Technology, 311

[51] As it has been characterized by Bert-Jaap Koops.

[52] Oneself as another, Fifth study. Personal Identity and narrative identity.113

gives lives and stories a narrative coherence without which the story-line would give way to a mere assemblage of unrelated episodic events. Maintaining this sense of coherence is an overarching feature of a life-project and productive well-being. Narrative coherence does not concern only constructing one's identity but also one's relationship with others. It is a promise to others to behave as they anticipate based on one's emergent character and personality. In that sense a mutual trust in community is rooted in maintaining a narrative integrity. The construction of identity is closely related to a sense of responsibility towards others. Reputation is strongly related to that sense of trust between community members.

The cyberworld world is also a story-telling world. The new format of profiles in Facebook has been characterized as depicting users' life-stories, as chronological narratives[53]. References to particular persons retrieved by searching their name appear as a credible and authoritative representation of a person's life-achievements or wrong-doings and consequently of their personal esteem, their notorious or good reputation. Is changing one's name an adequate measure to be freed from past mistakes and misfortunes? Does being narratively divided actually result in more freedom and moral autonomy, or can the construction of a double digital identity result in severe personal as well as social confusion?

In this article, we will attempt to follow such an extreme scenario in order to demonstrate the legal as well as the ethical considerations raised by such a suggestion.

Narrative identity

The philosophical issue

The discussion about whether we must have one or multiple selves recalls the philosophical debate between those who defend a notion of a disengaged self's personal identity and those who support a notion of narrative self. This debate has been analyzed by C. Taylor[54]. According to Locke, and followed by Hume, the unity of the person has been disturbed because of the unusual and perplexing relation of the mind to the body. Personal identity is the identity of the self, and the self is understood as an object to be known. For Locke, personal identity is a matter of self-awareness, self-consciousness, self-perception. As Taylor points out, it was based on this philosophical tradition of a disengaged self of rational control that Parfit[55] has argued that human life is not an a priori unity or that personal identity does not have to be defined in terms of a whole life. There is only a psychological connectedness with the right kind of cause.

Both Taylor and Ricouer oppose Parfit's view. According to Taylor, referring to Heidegger's thought, the person is aware of his or her temporal dimension. Persons speak of themselves using past and future terms. So Charles points out that self-awareness has temporal depth and incorporates narrative. People are aware that they are getting older and becoming someone through maturity and regression, successes and defeats[56]. In addition they make an effort for their past to be part of their life-story and to have a sense or a purpose. In other words, one's personal story must have a meaningful unity.

Simplifying this complicated debate, there are times that people look back on their past life-events and wonder whether it was really themselves who acted in a particular way. Occasionally they fail to recognize their own earlier adolescent selves and do not completely understand their motivations. But at the same time, people do

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[53] https://www.facebook.com/about/timeline

[54] Sources of the self, 49

[55] Parfit Chaps. 14 and 15.

[56] Id. 50

not think that their lives started after that point so that they do recognize themselves. They are aware of their temporal continuity and realize that those past experiences made them who they are. At the same time, they are not accustomed to speaking of themselves in their early 20s by way of a third-person narrative.

Digitized automated (auto)biographies

During the last few years, people in general, and particularly young people, have been using Web 2.0 to connect and share information. They are constantly encouraged to share photos, thoughts, participation in events, feelings and life-experiences. So searching for a person by name on automated self presentational sites such as Facebook[57] can lead to a public Facebook profile. It contains personal information chronologically organized[58]. Searching on other sites such as Google.com, Zoominfo.com, Pipl.com leads to a series of personal references. It is a trail of information-fragments removed from their original context.

So a person's reputation is not solely constructed by his/her interaction with others, but also by those search results. Mostly, individuals are unaware of the searches occurring as well as their results. Their digitally automated life-stories are deeply dependent on search engines' algorithms. So an internet search retells their life-stories. The individual is not the subject of this narrative, but the object. As analyzed above, this digitized, automated narrative self can harm the actual self. Recalling Ricouer, self-constancy, objectified in the image of an interlinking of all of our acts outside of us, has the appearance of a fate that makes the self its own enemy[59]. As another scholar has also noted "digital traces therefore have the potential to act as a virtual prison, to keep us tethered to expressions of ourselves that are outdated, incomplete or inaccurate"[60].

Protecting the self from becoming its own enemy

The proposal of a right to be forgotten

As analyzed above, since technology facilitates practices such as archiving information from every possible source and the construction of automated biographies, it challenges the law to protect the self from becoming its own enemy. Despite its long legal history, defamation law is limited to protecting the self only from having falsehoods spread, thus damage one's reputation, and can be implemented in few cases[61]. In order to resolve such problems, to respond to those personal as well as social concerns, a reform of European Union Data Protection Law has been proposed. As it has been noted that its key component is a right to be forgotten[62]. The right of individuals to have their data fully removed when they are no longer needed for the purposes for which they were collected, or when they withdraw consent, or when the storage period consented to has expired. According to the proposed reform, the obligation to erase or abstain from further dissemination of data exists if: a) they are no longer necessary in relation to the purposes for which they were collected or

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[57] As is has been characterized by Werbin.

[58] At the same time it must not be neglected that those digitized automated autobiographies can have personal, economic and social value. For example, such social value is recognized in Facebook's principles. According to the 5th Principle. people should have the freedom to build trust and reputation through their identities and connections and should not have their presence on the Facebook Service removed for reasons other than those described in Facebook's Statement of Rights and Responsibilities.

[59] Oneself as another, 296.

[60] Lindsay, 422.

[61] Solove 122

[62] Mitrou/Karyda

otherwise processed, b) their processing does not comply with the data protection framework, c) the data subject withdraws her consent or objects to the processing.

The proposed reform has initiated a still vigorous debate on the nature of such rights. Many have attempted to define the right. Although some have connected to identity and have been inspired by Ricouer's thought, they do not seem to understand the importance of referring to one's self. For example, Andrade argues that a right to be forgotten broadens the scope of the right to personal identity, covering not only the entitlement to construct one's future identity-story, but also to erase one's past. He also claims that the right to be forgotten plays an essential role, not in the process of identity construction, but in the process of identity deconstruction, allowing for new and different identities to be built afterwards[63].

Some have wondered whether it is a right, a value or an interest. Others have examined its relationship to other rights such as self-determination, privacy, right to identity and the right to forget[64]. Others have warned that legal restrictions could hinder expression and stifle freedom in the cyberworld[65]. Some scholars have suggested that the right covers situations that the right to erase data already significantly protects, severely questioning whether such legal provisions can be adopted because of the digital "tsunami"[66]. Most authors focus on a combination of legal and technical regulatory measures such as the implementation of PETs[67].

The second digitized self

According to the purpose of the proposed Directive Reform, individuals should require no effort or insistence to have their data deleted, as erasure should take place in an automated way. In this sense the proposed Regulation includes also a reversion of proof concerning the erasure of data[68].

On the opposite side of this proposition lies Google Chief Executive's suggestion to young people to change their names in their 20s. Such a drastic solution evokes fugitives or witnesses under police protection, the individual bearing the burden of having to conceal embarrassing personal information. Changing one's name requires substantial time and effort. While individuals' real names become a digital pseudonym leading their own separate digital lives, each leads the rest of their life with a new name, constructing a new digital self, concealing their past and in fear of it.

Apart from its not being an adequate measure to protect an individual's reputation, it must be considered that reputation is also a core component of personal identity[69]. As Post has noted, reputation is the respect for the self arising from assuming full responsibility in society[70]. Recalling Ricouer, these two aspects of responsibility, prospective and retrospective, join together and overlap in responsibility in the present. As he asserts, holding oneself responsible, in a manner that remains to be specified, means accepting to be held to be the same today as the person who acted yesterday and who will act tomorrow[71]. As recently noted, remembering is a way of ensuring the accountability of persons for the consequences of their actions, which nourishes "the sense of

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[63] 126

[64] Andrade

[65] Rosen 88.

[66] Koops 256

[67] Mitrou/Karyda

[68] Id.

[69] Solove, 33

[70] Post 711

[71] Id. 295

responsibility that is just as necessary to a democratic society"[72]. In case two or even more selves coexist, responsibility towards others is blurred. The new self is not responsible for its past actions, and the community cannot easily trust the person, since it cannot base its assessment on the individual's past actions.

Can this measure guarantee moral autonomy and freedom as it promises to do? In today's constantly connected societies, changing one's own name does not guarantee that a personal identity could be hidden. It could be easily recognized within a circle of friends and acquaintances and by via photos (facial recognition). At the same time, if changing one's name became common practice, a new kind of stigmatization might emerge. New friends and acquaintances might wonder why someone has decided to "refresh" their reputation. So it could result in discrimination and inequality. In short, changing one's name in one's 20s seem to cause more personal and social confusion than it succeeds in its purposes. This frivolous but yet distracting proposition must be totally eliminated from a nascent, fascinating discussion about the protection of the self from its digital self.

Some ethical considerations

It seems that a society that allowed young adults to easily erase their past, would neglect basic values. Young people would learn that they do not have to be taught by their past experiences. They would not need to ask for others' compassion and understanding, nor extend them to others if required. They would not deal with their own controversies nor with others. They would forget but not forgive, neither themselves nor others. They could not evaluate their own as well as others' struggle to change, to become and be taught by their own and others' narratives. It seems that such a society would accept that young people would avoid confronting basic characteristics of their own human nature: imperfection, loss and error[73]. It would appear as a society of "flawless" people incapable of seeing one another.

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[72] Blanchette and Johnson 2003 in Mitrou/Caryda.

[73] Allen

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