

The Awareness of UiTM Cawangan Pahang Students on Legal Rights and Data Protection in Social Networking Site (SNS): The Case of Facebook

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ABSTRACT

The growth of the internet has made online social networking popular among billions of individuals around the world. However, these people seem to forget that somehow they are revealing their personal information to people who are not in the circle of friends. Exposing real names, uploading pictures, revealing private information and updating their current status are some of the features provided by the SNS, namely Facebook. Furthermore, there is no awareness among the Malaysians who use Facebook especially about their rights and protections by the law. Despite the risks of using SNS, the Malaysian laws do not specifically address the legislation or rules to guide the usage of SNS but it is relevant to discuss under Malaysian Personal Data Protection Act 2010 and laws pertaining to privacy. These two laws are the main concern within this paper in order to look whether the students know the idea on data protection and privacy. Thus, a set of questionnaire has been distributed to a group of students randomly to measure their perceptions on the data visibility via Facebook and suggested the precaution that should be taken to prevent any unintended issues such as cybercrime, suicide, sexual harassment, identity theft, copyright infringement involving videos and pictures. The analysis findings revealed that 68.6% of respondents were aware of the risks occurring once they disclose their private information in Facebook and 69% of them were aware that they have the rights on the personal information provided under a law. Unfortunately, there are only 31% of respondents who were aware of the Personal Data Protection Act 2010 which was gazetted in June 2010. Through education and awareness, users will be more willingly and effectively utilize privacy and security settings available on SNS (Vinson, 2010).

Keywords: Facebook; Privacy Concerns; Social Networking, Cybercrime; Data Protection

Introduction

Nowadays, social networking site (hereinafter as SNS) has become the most popular website that surfed by people, especially youth. SNS also becomes a new Information Communication and Technology (ICT) tools for people to communicate with each other at different geographical areas. The present research will focus on Facebook as it has the most users recently, gaining rapid popularity (Yum, 2007) nowadays, yet we also have other famous SNS such as Twitter, LinkedIn, Foursquare, MySpace, Friendster and so forth. Statistic until December 2011 show that Facebook has 800 million users worldwide (www.facebook.com), and 12, 159, 260 of them is Malaysian users who have Facebook account (www.socialbakers.com).

Facebook is a social communication tool designed to allow users to contact and communicate with other users (www.facebook.com). They are connected together to communicate, collaborate, share ideas and keep updated with the entire friend's matter without boundaries. Facebook allows users to send messages, upload photos, update status and locations and describe the personal interests such as favourite movies, books, dramas and so forth. In addition, Facebook provides a "wall" where users can post any messages to user's profile and attach any linkages, photos and videos. Facebook also provides a function where users can create a group for any invited users based on their same schools, same interest, same class or anything. Many things can be utilized by using Facebook as a primary communication tools as Facebook has upgraded its services and facilities to ease users social life such as uploading photos, set to different languages, use the games or useful applications, use Facebook platform in other website, link users phone to Facebook and beneficial for other third party companies to link their website with Facebook.

Background and Motivation

As SNS is a type of online community that have grown tremendously in popularity over the past years (Tuunainen and Hovi, 2009), privacy issues have become the major concern for users, especially youth. The disclosed information may somehow expose them to various cybercrime an cyber-attacks, such as sexual harassment, unauthorized use of data, suicide, producing obscene material, and infringement of copyright (Abu Bakar & Siti Hajar, 2010). People seem to forget that they are revealing their personal information to those who

are not in their circle of friends as Facebook has become a part of daily life for many people because of the easy and convenient communication. They tend to do that by exposing and revealing personal information such as status and uploading inappropriate pictures which make them become famous among friends and a way to attract friends to view his or her profile.

There are several legal provisions dealing with the using of SNS. In most cases, Facebook users will find that their identity or data might be stolen by others, cyber porn, sexual harassment, copyright infringement involving videos, pictures which lead to breach of the terms used. The Computer Crimes Act 1997, Communication and Multimedia Act 1998 and Penal Code are dealing with the issues involving cybercrime in Malaysia. However the focus of this paper will be on data protection and privacy which is the main concern among young generation when using SNS. In protecting their personal data and privacy when using SNS, law has become important mechanism either looking for statutory obligation or case decided by judges. Currently, Malaysia has passed the Personal Data Protection Act 2010 (hereinafter known as PDPA 2010) which was gazetted in June 2010 and expected to enforce soon. The act covers personal data used for commercial purpose under Section 4 and must fulfil three requirements; (a) is being processed wholly or partly by means of equipment operating automatically in response to instructions given for that purpose; (b) is recorded with the intention that it should wholly or partly be processed by means of such equipment; or (c) is recorded as part of a relevant filing system or with the intention that it should form part of a relevant filing system, that relates directly or indirectly to a data subject, who is identified or identifiable from that information (Abu Bakar & Siti Hajar, 2012). Below are the seven (7) data protection principles that form the basis of PDPA 2010:

- **The General Principle:** Personal data can only be processed once the data subject that given his consent
- **The Notice and Choice Principle:** Data users must be inform a data subject the purpose of the personal data being collected and processed
- any other purposes other than the purpose for which it was disclosed
- **The Security Principle:** A data user must take practical steps to protect the personal data from loss, misuse, modification, unauthorized or accidental access or disclosure, alteration or destruction, or given to unauthorized parties
- **The Retention Principle:** The personal data processed shall not be kept longer than necessary for the fulfilment of the purpose
- **The Data Integrity Principle:** The data user must take all reasonable steps to ensure that the personal data is accurate, complete, not misleading and kept up-to-date, having regard to the purpose for which the personal data was collected and processed
- **The Access Principle:** A data subject must be provided access to his personal data held by the data user and be able to correct his personal data

A person will face a fine not exceeding RM300,000 and/or imprisonment for a term not exceeding two years if convicted with breach of the above seven data protection principle under Section 5(2) PDPA 2010. Furthermore, Section 2(1) of PDPA 2010 however, stated that the processing of the data is only applicable for commercial activities. These activities might include commercial nature like exchange of goods or services, agency, investment, financing, banking and insurance. However, there has been argued that the act itself does not include data protection over non-commercial activity. It seems difficult to draw a line between the personal data that had been used for commercial and non-commercial purpose (Abu Bakar & Siti Hajar, 2012). The act itself has two types of exemption; total and partial. Any personal data processing from personal, family/household affairs and recreational purpose are exempted from the application in the act. Partial exemption is applicable when data processing involve crime and taxation, physical and mental health, research, statistic, journalism, literature and artistic (Abu Bakar & Siti Hajar, 2012; Abu Bakar & Siti Hajar, 2010). Assuming that the personal data has been used for commercial activities such as online shopping, promoting goods or services, the act may cover but not personal data used for other non-commercial area. The question here is that, will this non-covering of non-commercial activities affect the using of SNS especially by young generation? Does their personal information or pictures stored in the SNS would be accessed to abuse and misuse by other parties?

Secondly, privacy becomes another issue when using SNS. Tagging pictures and videos are another example of the privacy concern within Facebook. Even, the user has the opportunity to restrict their privacy, however, there is no legal framework addressing this concern (Althaf, 2010). In Malaysia, Federal Constitution did not mention specifically on the right of privacy. However, in the case of *Sivarasa Rasiiah v. Badan Peguam Malaysia & Anor.* [2010] 2 MLJ 333 recognized the right of privacy as including rights of life protected under Article 5 of the Federal Constitution. In statutory laws and regulations, several statutes that dealing with privacy are; Birth and Death Registration Act 1957, the Child Act 2001, the Law Reform (Marriage and Divorce) Act 1976, the Penal Code, the Private Healthcare Facilities and Services Act 1998, the Communication and

Multimedia (Licensing) regulations 1999, Private Hospitals Regulations 1973, and the Bank Negara Guidelines on Data Management and MIS Framework (Abu Bakar & Siti Hajar, 2012).

Recently, there has been a controversial issue regarding the amendment to Section 114A of the Evidence Act 1950 which means a person who is depicted in a publication as owner or administrator is presumed to have published the contents (Gunasegaram, 2012). This has been raised the concern of manipulation by others that concern with privacy. Unfortunately, the rights of privacy has not been considered actionable per se by court in the case of *Ultra Dimension v Kook Wei Kuan* [2004] 5 CLJ 285 that involve infringement of photo to the a group of kindergarten's pupils for the purpose of advertisement. The only way our law concern with the breach of privacy is the infringement on the abusing woman photograph as decided in the case of *Maslinda bt Ishak v Mohd Tahir bin Osman & Ors* [2009] 6 MLJ 826. In this case the court allowed damages been given to the Appellant when her picture squatting and urinating in the truck had been taken without permission by enforcement officer in a raid. Even this case allowed the expansion of rights of privacy towards woman's photograph; however, there is much concern on the possibility of picture being posted in the SNS. Malaysian court should take positive approach in determining the concept of privacy pertaining to the cyberspace. Thus, the law of privacy in Malaysia is needed to address within specific legislation and extend the rights of privacy to the use of SNS (Abu Bakar & Siti Hajar, 2010; Althaf, 2010).

Thus, the present research will investigate the awareness of UiTM Cawangan Pahang students towards their legal rights and protection especially on personal data and privacy when surfing SNS. Through education and awareness, users will be more willingly and effectively utilize privacy and security settings available on SNS (Vinson, 2010).

Related Work

The present research focuses on youth, as the majority of Facebook users are between the ages of 18-24 years old (Gross & Acquisti, 2005). Meanwhile, from other statistic (www.socialbakers.com) shows the same result as 34% of Facebook users in Malaysia are aged 18 to 24. Young adulthood is the time where individuals often learn new skills, experience new things and experiment with changes (Fogel & Nehmad, 2009). It has lead to the issue on the protection on their personal data and privacy within cyberspace. Data protection law has been emerged as new area and many countries have enacted the legislative mechanism (Abu Bakar & Siti Hajar, 2010, 7; Abu Bakar & Siti Hajar, 2010). A lot of previous studies have been done and engaged on privacy concerns and risk taking when disclosed personal information in SNS, especially Facebook.

Mostly users are aware of the risks on disclosing too much information (Rabiul & Husnayati, 2010), but somehow they do not have much time to change the privacy settings (Vinson, 2010; Tuunainen & Hovi, 2009; Husein, Abdirizaq & Jamaludin, 2012) and feel comfortable to disclose the personal information (Govani & Pashley, 2010). General privacy concerns and identity information disclosure concerns are of greater concern to women than men (Fogel & Nehmad, 2009). The more the data exposed to the public, the less awareness of users towards the personal data and only less users change their privacy settings (Gross & Acquisti, 2005). As a result, individuals with SNS account have greater risk taking than those who do not have an account and mostly women have the concerns on privacy and identity information than men (Nosko, Wood & Molema, 2010). Individuals who have the self-disclosed intentions exposed themselves to a negative impact on their social life and personal life (Bateman, Pike & Butler, 2010). Age and relationship statuses in Facebook account were important to determine the disclosure of information. As age increases, the disclosures are also decreased (Nosko, Wood & Molema, 2010). But it is contradicted to the research finding (Latisha, Mahani, Nazira, Surina & Anis, 2011) as most of university students are concerned about their privacy.

Research Methodology

The preliminary step involved is library-based research which analyses the legal position on data protection and privacy through legislations, books, journal articles and websites. In order to look at the response from students, a survey has been conducted. The survey is adapted from (Tuunainen & Hovi, 2009; Gross & Acquisti, 2005; Fogel & Nehmad, 2009; Rabiul & Husnayati, 2010; Latisha, Mahani, Nazira, Surina & Anis, 2011; Govani & Pashley, 2010; Husein, Abdirizaq & Jamaludin, 2012) researches and modified by the author to make it suitable with Malaysian students in UiTM Cawangan Pahang and strengthen the information available in survey. The questionnaires consisted of five main parts: 1) background information, 2) information disclosure, 3) student awareness on risks occurred once information disclosed, 4) Facebook terms and use and privacy policy and 5) students awareness on the legal rights and data protection. Participants were 274 students among students the

age of 18 – 24 from various field of study. Participants were approached and asked to complete a form of surveys.

Findings and Analysis

This study aims at finding the awareness of UiTM Cawangan Pahang students towards the legal rights and data protection. Samples of 300 students were selected randomly from different field of studies in UiTM Cawangan Pahang. A net of 274 questionnaires were filled correctly and returned. 43.1% of the respondents are males and 56.9% of them are females. On the other hand, approximately 51.8% of the respondents were in the age of 20 years old. Regarding the field of study of the respondents, most of them were from Science and Technology field (66.8%), while from Social Science and Humanities field and Management and Business field were only 9.1% and 24.1% respectively.

Table 1 illustrates that the percentage of respondents who share their information in Facebook. 87.2% of the respondents include the picture of themselves on profile. Furthermore, almost 57.7% include their e-mail addresses on their profile. Approximately 35.4% include their instant messaging address. 67.5% use their real name on their profile. Interestingly, there are a few percentages of the respondents including their phone numbers and home addresses with 5.8% and 8.4% respectively.

Table 1. The percentage of respondents who shares personal information in Facebook

Category	Frequency	Percentage (%)
Picture of themselves	239	87.2
E-mail address	158	57.7
Instant messaging	97	35.4
Phone number	16	5.8
Home address	23	8.4
Real name	185	67.5

Overall, 68.6% of respondents were aware of the risks occurring once they disclose their private information in Facebook. See Table 2. Table 3 describes that female are more concerned on the risks of exposing personal information by 110 respondents compared to the male. This study suggested that male respondents are comfortable with how much the information they revealed in online social networking site, supported by research conducted by Campbell et. al (2001), concludes even though individuals express concern and awareness about internet privacy, they are still willing to engage in risky online activities.

Table 2. Respondents were aware the risks occurred once information was disclosed

Category	Frequency	Percentage (%)
Yes	188	68.6
No	86	31.4

Table 3. Number of respondents who were aware of the risks occurred one information disclosed categorized by gender

Category		Gender		Total
		Male	Female	
Are you aware the risks occurring once you disclose your personal information in Facebook?	Yes	78	110	188
	No	40	46	86

Table 4 demonstrates the percentage of respondents who read the Facebook privacy policy and those who did not read before. To begin with, 44.9% of respondents read the Facebook privacy policy while 55.1% did not read it. There are several reasons identified why respondents did not read the Facebook privacy policy. See Table

5. 43.4% of respondents agreed that it takes too much effort to read the Facebook terms of use and privacy policy and 33.6% of them decided to choose that the Facebook privacy policy were difficult to understand. The other respondents stated that they were not aware of the policy and they trust Facebook so much so that they did not have to read the policy. About 0.4% of the respondents were missing. This finding was supported by the research done by Ofcom (2008) where the lack of the awareness, trust the online social networking site so much and low level of confidence in manipulating the privacy settings are the factors why people are unconcerned about the risks occurred.

Table 4. The percentage of respondents who read the Facebook privacy policy and those who did not read

Category	Frequency	Percentage (%)
Yes	123	44.9
No	151	55.1

Table 5. Reasons why respondent did not read the Facebook privacy policy

Category	Frequency	Percentage (%)
Take too much effort	119	43.4
Lack of awareness	54	19.7
Trust Facebook so much	8	2.9
Difficult to understand	92	33.6

Tables 6 describe describes that 69% of respondents were aware that they have the rights of their personal information under a law from being manipulated and misused by third party, especially in internet or social networking site. Unfortunately, only 31% of respondents were aware that Malaysia has PDPA 2010, the act that protect personal data processing by others in commercial transactions either stored or recorded or managed automatically or as a file system to avoid them from being misused.

Table 6. The percentage of respondents who were aware they have the rights of data under a law and awareness towards PDPA 2010 in Malaysia

Category	Frequency	Percentage (%)
Aware have the rights of data under a law	189	69
Aware Malaysia has PDPA 2010	85	31

At the end of the survey, respondents were asked on changing the privacy settings in Facebook after undertaking this survey. Fortunately, 83.2% agreed to change the privacy setting especially on the personal information in Facebook. This indicates that increasing awareness of privacy might result in more careful behavior in online social networking.

Conclusion and Recommendation

Online social networking offers new opportunities for interaction, collaboration, communication in an easy and inexpensive way to maintain the existing relationship. In this study, we have reviewed earlier research on privacy issues related to social networking sites and presented the results of our empirical study among UiTM Cawangan Pahang students of Facebook. Therefore, this study found that majority of the UiTM Cawangan Pahang students were aware of the issues on legal rights and concerned about their data protection. In addition, they continue to use Facebook by changing the setting of privacy setting in their profile after completing the survey. This might be due to the publicity and education given on privacy concerns about online social networking though the previous cases happened in Malaysia and from the online and offline discussion by people in the surroundings.

Furthermore, the privacy policy of Facebook was largely taking a lot of effort to understand by the respondents and the language used is difficult to understand. However, many of the respondents were awakened by the survey and decided to pay more attention to their privacy settings in the future.

Overall, this study is important because it provides the evidence on the awareness of users towards the PDPA 2010 and laws pertaining to privacy in Malaysia, which a new field to be explored as there are only a few researches done in relation to SNS.

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