GDPR, PIPL & LGPD: Privacy Regulations & Policies Across the Globe

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ABSTRACT: Several privacy laws around the world are adopting similar regulations to the GPDR; this has effects on privacy policies of companies providing services in across multiple countries & continents. While these regulations share many attributes, their differing requirements can make things difficult for companies regarding said policies. Automation could be a potential solution to both analyze and compare regulations from different nations & international organizations, analyze and monitor privacy policy adherence to said regulations.

Introduction

Regulations and policies have been greatly influenced by the European Union General Data Protection Regulation (GDPR), a law concerning the processing and privacy of personal data. The law came into effect in May 2018, and is applied to any organization operating in the European Union, which currently counts 28 member nations (Commission, 2018). The main goal behind its creation was to help inform individuals of the status of their personal data, be it the processing, storage & deletion of said data, the privacy with which it is manipulated, and to "allow them to make an informed decision on whether they consent to allow their data to be stored and used" (Laybats, 2018). Several newer laws across the world have been written after the GDPR, seemingly taking inspiration from it, or outright emulating some of its attributes. Research has been mainly focused on the California Consumer Privacy Act (CCPA), which has affected other regulations in US states (in states such as Nevada and New York). Data privacy laws applying in other continents, however, have also been the subjects of comparisons with the GDPR; Brazil's Lei Geral de Proteção de Dados Pessoais (LGPD), translating to "General Personal Data Protection Act", is a main example (Erickson, 2019). The recent Personal Information Protection Law (PIPL), meant to take effect in November of 2021, adds another object of study in this field. While there are many

similarities between these regulations, differences between them could place companies offering services across several nations & territories in difficult positions, as their privacy policies will have to adapt to these differences. Automation of privacy policy & regulation analysis could potentially prove itself a valuable solution to likely problems.

Background

The PIPL was planned to be adopted in November 2021 by the National People's Congress of the People's Republic of China, and concerns more than a billion internet users. While the definitive text is not yet available in English, the draft has been translated; its seventy articles has the objective of setting measures on collection, treatment and storage of data, and to "put an end to a laxism which had become warrying and counter-productive" (Bidan, 2021). Brazil's LGPD has a longer history, as it was signed in August 2018, just shy of four months after the GDPR came into effect, and "mimics the GDPR in many important ways". Amongst its sixty-five articles, many sections and points were vetoed by President Temer; the final signed law nevertheless remains extensive in details, and is still visibly similar to the previously mentioned regulations, enough to warrant comparison (Erickson, 2019).

A study conducted on the impact of the GDPR on online privacy policies, by Thomas Linden et al. aims to measure, amongst other factors, company policies compliance with the GDPR both before and after its introduction to the EU. A positive trend of compliance with GDPR clauses was found in both EU-based and global-based policies. Conclusions from this study are that "the GDPR has been a catalyst for a major overhaul of the privacy policies inside and outside the EU". Improvements towards more data practices coverage and consistency, specificity and transparency

towards users are also noted. However, "this overhaul of the policies […] comes at mixed benefits to the users" (Linden, 2020).

It is very likely newer regulations such as the PIPL, LGPD & CCPA will have, if not already have, similar effects on privacy policies of companies offering services in the concerned regions of these laws. As these laws all cover an extensive amount of geographic & politic situations, data types, and data operations, as well as differing term definitions, manual analysis of these regulations, and manual comparisons to corresponding policies, would be both inefficient and fallible. Furthermore, overlapping of these regulations for companies operating on various territories could complicate matters, as location-specific regulatory requirements would prevent universally applicable policies for these organizations.

A potential solution to these problems is automation, which is a common topic of research and innovation in the field of policies and regulations. Projects such as the *OPP-115 Corpus* (Online Privacy Policies, set of 115), PolicyLint, and PrivacyFlash Pro, are a few examples. A similar philosophy could be applied, and similar systems could be put in place for the purpose of automating the analysis and comparison of regulations concerning different geographical locations.

Analysis & Observations

Manual analysis & comparison of existing regulations is a necessary initial step towards possible automation of privacy policy analysis. Using English translations for the PIPL and LGPD, reading through each law's articles and equating relevant topics between them exposits various recurring themes.

A majority of articles in the GPDR, PIPL & LGPD concern the collection, processing & handling of data. For each of the three laws, consent is explicitly required from the user; there are various exceptions, such as criminal activity & public security being tied to the data in question, or the safety or health of the user being threatened while they are unable to give consent. A distinction is made for so-called "sensitive information": race, ethnicity, religious belief, biometric features, medical health & financial accounts". The PIPL adds "individual location tracking" to this list, while the other two laws have "political & philosophical opinion, and union affiliation"; GDPR alone specifies "sex life and sexual orientation". Anonymity of data is highly encourage in all three laws.

The PIPL & LGPD have articles specific to the collection of data by legal or state entities; "State Organs" are repeatedly mentioned in the PIPL. As the GDPR was conceived to be applied in multiple nations, rather than the PIPL & LGPD which take effect over a single nation, it is expected that the interaction and access to data by legal and governmental organizations merit more focus than in the GRPD.

For all three laws, the processing for "archival, statistical or historical research purposes" are considered lawful processing purposes; however, the LGPD specifically includes "journalistic, artistic and academic purposes" to this list, as well as "studies by research body".

Beyond the right to give and rescind consent for data collection and processing, users have additional rights explicitly stated in each law. Rights common in all three laws include the rights to access, correct or complete, delete & copy their data. Controllers are specifically required to accommodate users in a "timely manner", but no specific time periods are given in any of the laws (besides the LGPD, and in a very specific case).

Articles concerning the sharing of data, between third parties, international entities or organizations in foreign countries vary more between the three laws. The GPDR has almost no articles concerning third party sharing; for the PIPL & LGPD, third party sharing constitutes half the articles on data sharing. Inversely, the GDPR has more articles on international transfer of data, which is justified given the status of the EU. The PIPL uniquely mentions "personal identity recognition equipment in public", which warrants its own article; such a topic is not specified in the other two laws, nor is image data mentioned specifically. As for the LGPD, what the regulation refers to as the "national authority" is given the right to establish various complementary rules concerning data sharing and communication.

Few articles are dedicated to the selling of personal data: the LGPD in particular has none. The GDPR contains one article concerning the use of data for direct marketing purposes, and the PIPL contains one on data being used to conduct automated decision making. Both articles focus on the use of data for targeted marketing, rather than the specific act of selling information. As the CCPA contains articles about the latter, further analysis & comparison would be required.

All three laws require data retention period to be as short as possible in order to accomplish the purpose of the collection and processing. Records are required to be maintained; the GDPR requires the most information, such as: name and contact details of the controller, purpose of processing, description of categories of data subjects, recipients of data, transfers of data to international organizations, among others. The LGPD lets the "national authority" establish rules and standards for this information. The PIPL has no equivalent information on these latter topics.

Data deletion is similar for all three laws; it is expected of controllers to delete data as soon as its purpose is fulfilled. The GPDR states controllers are expected to communicate erasure of

data to recipients; the PIPL expects all data handlers to cease information handling if deletion is "technically hard to realize"; the LGPD specifies "studies by research bodies" as special cases.

Various points are exclusive to some laws; while all three expect data collected from children to require the consent of their guardians, the age at which a user is considered a child is different for each (16 in the EU, 14 in China, and no age specified in Brazil). The GDPR expects Member states to "reconcile the right to the protection of personal data […] with the right to freedom of expression and information, […] including journalistic purposes and the purposes of academic, artistic or literary expressions". No such expectations are present in the other laws.

Conclusion

With further manual analysis of regulations affecting different locations around the world, a body of similarities and differences in requirements could be built to use as a base for future automation of analysis, for use in privacy policy adherence verification. Additional regulations, from countries less researched would be beneficial, adding a greater depth to the body.

Language is another angle worth examining; most research in this area is conducted on English regulations and specifics, or translations in English. The LGPD and PIPL texts used for the analysis used for this paper were translated into English from Brazilian and Putonghua, respectively, obtained from sources with the highest available quality. Possible errors in translations should always be a factor to consider in such exercises.

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