

Privacy and Data Protection : A Critical Analysis in Context of Existing Data Protection Laws

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Abstract

The right to life and individual freedom are guaranteed by Article 21 of the Indian Constitution. The aforementioned fundamental right includes the right to privacy as a key component. Privacy, which is frequently mistaken with trade secrets and confidentiality and only applies to information specific to individuals, refers to the use and disclosure of personal information. In India, there isn't currently any explicit regulation covering data protection and privacy. Different laws relating to information technology, intellectual property laws, crimes, and commercial relationships can be used to protect privacy and data. The Information Technology Act of 2000 establishes safeguards against violations involving computer system data. Data privacy violations are not specifically covered by the Indian Penal Code. Liability for such violations must be deduced from related crimes under the IPC. The Indian Copyright Act lays out required penalties for copyright infringement that are commensurate with the seriousness of the offense. According to the Credit Information Companies Regulation Act of 2005 (CIRCA), credit information belonging to individual Indian citizens must be acquired in accordance with the privacy standards outlined in the CIRCA rules. India has made strides in the area of data protection in recent years, but it still lacks a sufficient legislative system to guarantee the privacy and safety of individual digital records. This study attempts to offer a critical evaluation of the legal options open to a person in the event of a breach of personal information. Concern has been raised about the lack of adequate data protection laws, particularly in this age of rapidly advancing technology. All parties involved agree that a specific regulation protecting personal information would help the outsourcing sector and foreign direct investment policy as a whole.

Keywords- Privacy, Data Protection , Legislation , Right to privacy

I. Introduction

Data has become such a common word that many of us have probably never thought about its exact definition. Any type of information that has been acquired and organized in a meaningful way so that it may be processed further is referred to as data in computing. Alternatively put, data are well-known facts that can be noted down and have a hidden significance. The term "data" refers to recoded information within legal definition, independent of its format or the medium on which it may be stored. Data refers to all forms of unprocessed information, including books, articles, papers, charts, records, studies, research, memos, computation sheets, questionnaires, surveys, and other written materials.

In present a person is more on internet, social media, and e-space than even his physical presence and existence, equivalently important and crucial is the significance of data protection. The technology and law are inter-dependent on each other, and this will surely witness an active increment in future, according to a Research , the advance ,me of law will surely be based on Artificial Intelligence (AI) , which will bring more new challenges and impediments in the way of privacy and data protection in India as well as the world. We can see that how technology can infringe your privacy and can create blunders in your life. Data protection safeguards sensitive data against loss, manipulation and misuse. There are several proposed bills for data protection and contributions of the Information Technology Act 2000, Indian Contract Act, 1872 , Indian Penal Code, Indian Copyright Act , Credit Information Companies Regulation Act 2005(CIRCA) are currently the data protection legislations in India because There isn't any special legislation for this matter yet. The Data Protection Act was introduced in 2019 and is currently pending in parliament.

Types of Data

- 1. Public Data-** Public data is significant knowledge, albeit frequently freely available information that may be read, researched, reviewed, and stored. It normally has the lowest level of security and data classification. Public data may pertain to a particular person, group, or business. For instance: Name, Name of the Company, details about the founder or executive, date of birth or incorporation, Address, contact information (phone and email), etc.

2. **Private Data-** In order to preserve its integrity and the ability to access additional data through it, private data should be kept secret from the general public. Private information is typically information that you might protect by using a password or fingerprint access function. For instance, a person's email address and phone number, research information or online surfing history, the contents of their email or cell phone inboxes, the numbers on their job or student ID cards, etc.

3. **Internal Data-** Internal data is often only accessible to individuals who work for the company and often refers to a corporation, business, or organization. Business strategies and plans, internal emails or memoranda, corporate websites, budget spreadsheets and revenue estimates, email and messenger platforms, archival files, URIs, and Internet Protocol are a few examples.

4. **Confidential data-** A small number of people or parties are permitted access to sensitive material under the categorization of confidential data, frequently with clearance or specific authorization. As an illustration, consider the following: Social Security number, vehicle identification number, health and medical records, insurance provider details, credit card number, pin number, expiration date, card holder account end transaction details, and biometric identifier for financial records.

5. **Restricted data-** Of all the data classifications, restricted data is the most delicate. In order to prevent unauthorized users from accessing or reading the content on limited platforms, it frequently has backup methods like data encryption and stringent security measures to limit the number of persons with access to the data. Particularly if the compromised data is subject to local, state, or federal regulations and laws, cyber assaults on restricted data are often illegal and may result in fines or legal charges. As an illustration, consider data covered by a stringent confidentiality agreement, federal tax data, protected health data, etc.

II. Research Objectives

1. Highlighting the importance of specific data protection laws.
2. An overview of existing data protection laws..
3. Understanding the significance of Privacy and Data protection.

III. Research Methodology

The research methodology is a Doctrinal research.

IV. Analysis and Discussion

It is must for us to understand that privacy is the intrinsic and in alienable right of the mankind on this earth, widely includes every activity or act, where reasonable privacy is must unexpected by any human like property, relationships, sexual orientation , travel etc. However, the declaration of right to privacy as a fundamental right, is good for the citizens but on the same hand increases the obligations on the state to protect the privacy of each and every individual, residing in the territory of India, as even in the private transaction i.e. Infringement of right to privacy by any private individual the government may be held accountable for it .Even though various laws do accord with the issues related to Privacy, there is a need of specific and comprehensive legislations that govern Data protection and privacy related issues in India.

V. Conclusion and Suggestions

1. That though there are various legislations and constitutional provisions in India which governs the Right to Privacy and Data protection, but there is no specific enacted law which deals in protection of right to privacy , which makes it's execution and assurance weak as compared to the foreign countries
2. There should be a Data Protection Authority in India, like we have specific and statutorily dedicated authorities In all spheres like Bar Council Of India (BCI) for Advocates and Legal Practioners, Indian Medical Council(IMC) for Doctors and Medical Practioners, Institute of Company Secretaries of India (ICSI) for Company Secretaries and other members, who looks and works in the interest of its members, but there is no specific executionary authority in the field of Privacy in India, which again makes the legal infrastructure and guarantee of right , ,mid in the Country.
3. There should be a Adjudicating Officer fir dealing With the, cases of privacy infringement in

India, like we again have specific officers dealing technically in matters of violation of their special field, Like Ombudsmen for Banking Disputes appointed by Reserve Bank of India, EOW fir dealing with Economic offences, Lokayukta and Lokpal for dealing the matters and complaints related to corruption and otherwise, the only remedy the victim has is to either

approach the Apex Court or the High Court, which puts unnecessary burden on the Judiciary and results in inordinate delays ultimately defeating the very purpose of law that is Justice.

4. There must be some fast track courts established in the country specifically dealing the cases of privacy infringement, child abuse, sexual abuse of children in which social media is used as a platform by the perpetrator of the crime , and earliest disposal of the case with proving stringent punishment to the wrongdoers must be ensured in order for providing speedy relief to the aggrieved and acting in furtherance of justice.

Lastly, we have discussed about the importance of having specific legislation to deal with privacy and data protection in India. India is a fast growing economy and is considered as a hub for foreign companies to invest in Indian businesses and to bring their business to India. In such condition India has to make sure that the Data of foreign companies and users is not compromised and even if it does then we should have a remedy available to serve justice to the victims of data infringement. Now Technology is an integral part of our daily lives, be it business administration or health sector , banking sector or legal sector everywhere the data plays extensively and extremely key role in determining the results in the favor or against the person or organizing at large. We would find it really difficult to function in our daily lives without having proper technological resources and Privacy is one of those resources that guarantees security against loss of personal digital information.

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