

JOURNAL FOR LAW STUDENTS AND RESEARCHERS**RIGHT TO PRIVACY AND DATA PROTECTION**

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“Any person’s home is his castle.”

Above comprehended saying is getting legitimate acknowledgement as Right to Privacy now. Regardless, this thought of privacy isn't constrained just to an individual's home. Privacy rests in the 'individual' and not in 'places'. Along these lines, even outside one's home, different spaces could comparably pick up the character of private spaces, and even open spaces can bear the cost of a level of security. Individuals have a characteristic need to control private pieces of their lives. This need is basic in human behaviour and now this has been seen as basic fundamental right to privacy. There were a tons of cases on privacy, yet none of the cases were in favour to consider privacy as a fundamental right, yet after the passing of a leading judgment that is K.S. Puttaswamy v. Union of India, 2017, right to privacy is given due recognition and affirmation.

Privacy, to begin with means, "The condition or state of being free from community attention regarding interruption into or intervention with one's acts or choices." The thought of privacy can be followed from the prehistoric text of Hindus. Hitopadesha says that particular issues like love, sex and family matters and others are ought to be protected from exposure. This concept is not entirely new to our Indian Culture.

The Indian Constitution incorporates Right of Privacy under Article 21, which is fundamental element of right to life and personal liberty. Article 21 of the Constitution provides that "No individual entity to be prevented from right to life and personal liberty except for procedure set up by law"

NEED FOR DATA PROTECTION

Privacy right is a multidimensional thought. In present day society, right to privacy is seen in the eyes of the law well as in the common parlance. Article 21 secures the right to privacy and advances dignity of the individual.

Nowadays there has been a increasing fear about the vast amount of data which the human beings hold as a record in their computers and laptops. The right of privacy refers to particular right of a person to control the assortment, utilize and divulgence of individual information. Personal Data or information can be in the type of personal interests, activities and habits, family records, financial records, educational records, money related records, medical records, etc. An entity could without much of a stretch be hurt by the presence of computerized information about him/her which is erroneous or misleading and which could be transferred to an unauthorized outsider at fast and almost at no expense. This development in the utilization of individual information has numerous advantages however it could likewise lead to problems.

The right of privacy is recognized in Constitution of India nonetheless its progress and growth is altogether left at the mercy of the judiciary. Modern world is a connected world, it's very difficult to prevent data to get away into communal domain on the off chance that somebody is resolved to put it out without utilizing very severe strategies. However, we can today access any kind of data related to any individual from anywhere and that too at any time but this poses a new risk to personal and confidential data. Data privacy and protection has been dealt in Information Technology Act, 2000 however not in an extensive way. This IT Act needs to set up precise principles and standards identifying the strategies and motivation behind osmosis of right to personal data and privacy. IT Act is facing the problem of protection of data and a different enactment is truly necessary for protection of data and finding some kind of harmony between personal liberty and privacy.

The protection under Article 21 isn't absolute and is subjected to specific limitations. For example, the right could be confined if there is a law made by legislature to limit the same. Presently, a draft of Personal Data Protection Bill is under consideration. As on date, the present structure for data protection is set out in Information Technology, 2000 and the rules issued under, Information Technology Rules, 2011.

The Protection of data and privacy can be read from various laws that are related to Information Technology, Cyber Crimes, Intellectual property and contractual obligation that are legally binding.

- (a) Information Technology Act 2000
- (b) IR Laws
- (c) Indian Penal Code 1890
- (d) CICRA, 2005

As per Section 43A of Information Technology Act, where a corporate body, overseeing or dealing with any insightful personal data or information in any PC asset which it possesses, operates or control, is careless in executing and maintaining reasonable security practices and techniques causes wrongful gain or wrongful loss to any entity, such body corporate will be liable to pay the damages by the way of compensation to the person affected.

The Supreme Court's judgement is accurate and genuine, with the development in the information technology sector, privacy should be the key right. In any case, it is likewise obvious that strict laws need presentation after this. An expert committee must be framed to explore into the issues regarding privacy violation that are happening in India and accordingly legislation must be enacted. Laws regarding Data Protection must be made progressively stringent and must comply with the OECD guidelines. Just a couple of sections like 43A of the IT Act won't be adequate to regulate the information protection at such a huge scale.

With regards to the struggle among violation of the privacy and the public interest, rational consideration should be taken to choose what is increasingly significant. Individual interest can never supersede public interest. The maxim "salus populi est suprema lex" which means public welfare is the most noteworthy law must be kept up in democracy. Subsequently, the Government must always consider the pleasure of larger number of individuals should attempt to inflict lesser torment. There must be guideline on the arbitrary utilization of power by the Government as for personal information of the individuals. Perhaps the best advantage is that India has is that the Personal Data Protection bill, 2018 is still pending before the Parliament. Subsequently, applicable corrections can be made to it before its enactment. While the bill is a

milestone in the growth of data privacy values in India. It is hoped that the final version of the law can secure a free and fair digital economy that empowers Indian residents.

