



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

Data Protection In India: A Historical Study Of The Legal Regime And Its Evolution

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Abstract: This research delves into the significance of individual data privacy and how personal data has become increasingly crucial. It highlights potential abuses that can arise from the misuse of data and discusses ways to safeguard citizens' personal rights concerning their information. The author examines the historical context of data protection, incorporating perspectives from both global and Indian contexts, along with judicial backing. Additionally, it emphasizes that personal information has evolved into an essential fundamental right and traces the origins of the Digital Personal Data Protection Act, 2023.

Keywords: *Consumer Protection, Data Protection, Information Technology, Digital Personal Data Protection Act.*

I. INTRODUCTION

The way people acquire goods and services has changed significantly over time. It started with the ancient barter system, where individuals traded goods and services directly. Then came cash-based transactions and the technological advancements of the industrial revolution, which transformed how people work and live. Today, goods and services are easily accessible worldwide.

The Industrial Revolution had a big impact on production and consumption, resulting in a complex relationship between economic growth, consumer risk, and regulatory response, with minimal government intervention through the Laissez-Faire approach. This led to the emergence of consumer protection movements and policies aimed at protecting consumer interests during rapid industrialization. As a result of the consumer protection movement, many drastic changes took place, such as the establishment of regulatory agencies like the Federal Trade Commission (FTC), Consumer Product Safety Commission (CPSC), and Food and Drug Administration (FDA), and the implementation of consumer protection laws. The movement increased transparency in business and empowered and educated consumers to demand their rights, leading to a more consumer-centric marketplace. At the same time, as online markets gained importance, consumers started purchasing goods and services nationally and internationally.

The heightened competition in the market has resulted in businesses collecting consumer data to comprehend their preferences and attract them. However, this practice has extended to the point where consumers are unable to protect their own data. This could potentially lead to financial crises or consumers being provided with defective goods and services. Therefore, it has become essential to ensure consumer data protection in the digital era.

The author mainly focuses in this article is to trace the idea to enact the Act of Data protection of the person who is suffering the problem in it

II. GLOBAL HISTORY OF DATA PROTECTION

As the internet grows, people need to protect their personal information. To do this, the OECD made recommendations in the 1980s about how to protect privacy and the flow of personal data across borders. The EU General Data Protection Regulation (GDPR) was passed by the European Parliament in 2016 and went into effect in 2018. This Act is compliance with set of principles which relating to lawfulness, fairness and transparency, purpose limitation, data minimisation, accuracy, storage limitation, confidentiality in part, by Article 6 of the GDPR.

III. INDIAN HISTORICAL ASPECTS

With the influence of this European Data protection Act, India is also given the important to the Data protection so, based on that India is indirectly added the Data protection in Information Technology Act, 2000 under Section 43A it deals with compensation for failure to protect data, and Information Technology Rule 2011, which mainly focused on protecting sensitive personal data held by body corporates. That is about the Security Practices Rules say that businesses that have users sensitive personal information must follow certain security requirements, the Intermediary Guidelines Rules say that some types of content are not allowed on the internet, an intermediary, such as a website host, is required to block such content. The Cyber Cafe Rules require cyber cafes to register with a registration agency and maintain a log of identity of users and their internet usage, under the Electronic Service Delivery Rules the government can specify certain services, such as applications, certificates, licenses etc, to be delivered electronically.

The Consumer Protection Bill of 2015 aimed to update consumer legislation to tackle concerns associated with e-commerce and online platforms, but regrettably, it will not be enacted into law. However, it was ultimately succeeded by the Consumer Protection Act of 2019, which indirectly addressed issues related to data privacy. Despite its implementation, consumer data remains unprotected, and incidents of infringement and hacking continue to escalate.

IV. JUDICIAL SUPPORT FOR DATA PROTECTION

First time in Indian before legislation look into it, the judiciary is taken action in 2017, In the case of Justice K.S. Puttaswamy (Retd.) and Anr. v. Union of India, the Supreme Court of India recognized privacy as a fundamental right protected by the Indian Constitution. The esteemed Supreme Court determined in this matter that the right to privacy is an essential aspect of the liberty and personal choice safeguarded by Article 21 of the Constitution. This decision establishes a constitutional basis for protecting personal data from unauthorized access, usage, or disclosure, which carries significant implications for data privacy in India.

Following the Justice K S Puttaswamy Case, the court declared that the Aadhaar Card is valid; however, Section 57 of the Aadhaar Act 2016 has been declared unconstitutional. This section previously permitted private entities, such as schools, mobile operators, and banks, to request and use Aadhaar authentication for a range of purposes.

V. THE ERA OF DATA PROTECTION BILLS

In Indian legislation, significant attention was given to data protection and bring up with The Personal Data protection Bill 2019, This bill primarily aimed to safeguard individual rights and was applicable to social media intermediaries, governing the transfer of data both domestically and internationally, as well as addressing offences and penalties, Bill is again revision in 2021. However, this bill was withdrawn in 2022.

In 2022, Parliament was introduced new bill after all recommendation took place that is Digital Personal Data Protection Bill. This Bill was give more focuses on Digital era, and strengthening the more consent mechanism and finally in 2023 Data protection Act was passed.

Despite the enactment of the DPDP Act, there are numerous concerns regarding its loopholes. These include exemptions for the government and certain entities, ambiguity around the classification of sensitive data, and a lack of independence for the oversight body

VI. CONCLUSION

In the modern digital landscape, most activities are conducted at our fingertips, accompanied by various pieces of information that must be safeguarded against malicious intent. In India, the Digital Personal Data Protection Act plays a crucial role in preventing the misuse of our data, but it needs to become more effective in the future.

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