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## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **EVOLVING DIGITAL WORLD - CONCERNS ON DIGITAL PRIVACY AND DATA PROTECTION**

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## **ABSTRACT:**

In the 21st century, India with billions of population depends on technology. Due to this rapid growth of technology, accessibility has been improved and transformed the work process of citizens and Government. The increased amounts of data are being gathered and utilized, which has been of huge concern regarding individuals' privacy. New technologies such as artificial intelligence, big data, and cloud computing become convenient ways of collecting and analyzing people's personal data but also enhance the probability of that data being abused. Therefore, a greater demand for powerful laws to safeguard individuals' privacy is on the rise. Study highlights the emerging challenges in data privacy and data protection. And how effective is the current legislation compared to other nation laws in safeguarding the individual privacy rights. And to propose the recommendations for betterment of data privacy and protection laws

**Keywords: Data Privacy, Data Protection, DPDP.**

## **INTRODUCTION:**

In the data driven world, with the advancement of technology and the dependence, digital data has been a valuable asset for every legal and artificial. It shall be the duty of an individual and others to safeguard and to protect against the misuse and leakage of data. This data are directly proportional to the rights of individuals. Thus, data protection is for the organization's data, and privacy relates to the individual's. In India, the Digital Personal Data Protection Act, 2023 was enacted. As the world increasingly relies on digital platforms, the need for the protection of data and measures to prevent the breach of privacy are essential. The primary task is to strike the correct balance between promoting new technology and business development on the one hand and ensuring that people's rights and personal data are secured on the other.

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## KEY TERMS

Data means representations of information that are being prepared and processed by the computer system systems in any form that can be stored internally in the computer, and other storage devices.<sup>2</sup> Personal data means any data of an individual which shows about the identity or the relation of the individual to such data.<sup>3</sup> Data privacy means the ability of the individual to determine to what extent personal details can be shared or communicated to others. Data privacy is considered as the fundamental right of an individual. Data protection is a rules, regulations, legal safeguard of the data and to protect the identity of the individuals against any loss, damages, or corruptions. Data principal means the person to whom the personal data belongs to.<sup>4</sup> and data fiduciary means the person who is responsible for processing the personal data<sup>5</sup>

## EVOLUTION OF DATA LAW

Article 21 of the COI, impliedly grants the privacy right as a fundamental right to the individuals. This was appealed in the case of *KS Puttu Swamy versus union of India*<sup>6</sup>. In India, information technology act 2000 and Indian penal code, 1860 have dealt with this right to privacy as there is no specific legislation that deals to protect the privacy and protection of data.

In the year of 2017, the Justice Krishna committee was appointed by the Ministry of electronics and information technology to submit a detailed report on introduction of data privacy law in India. Based on the recommendations of this committee, a draft privacy bill was passed and in the year of 2022 digital personal data protection bill 2022 and in 2023, the act was finally passed called – DPDP digital personal data protection act 2023.

## LEGISLATIVE FRAMEWORK

### 1. Information Technology Act,2000:

The corporate, which deals with the personal data of an individual, Is responsible to protect by implementing the reasonable security practices. In case of any negligence which causes any loss or gain to any person, the body corporate is liable for compensation of damages.<sup>7</sup>Any

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<sup>2</sup> 2(o) of IT Act,2000

<sup>3</sup> 2(t) of DPDP,2023

<sup>4</sup> 2(j) of DPDP, 2023

<sup>5</sup> 2(i) of DPDP, 2023

<sup>6</sup> AIR 2018 SC (SUPP) 1841.

<sup>7</sup> Sec 43A of IT Act,2000

person during the terms of lawful contract and access to the personal data, and with a malicious intent to cause damages or wrongful loss or gain without consent of the concerned person for disclosure of data shall be punished with imprisonment of 3 years and 5,00,000 as fine.<sup>8</sup>

## 2. DPDP Act, 2023:

The act as mandated that Personal data be accessed only with the consent of the data principal, for the legitimate purpose only by making a request through notice by informing the purpose, manner of process.<sup>9</sup> The consent of the data principal has to be free from question. It has to be specific, unconditional and unambiguous In a plain language, request with clear affirmation for processing of personal data for the specified purpose and manner. The consent can be withdrawn at any time to adhere to the consequences of withdrawal. The data principal has the right to obtain the summary of personal data that are processed by the Fiduciary. They can make corrections or update and erase personal data at any time. In case of any grievances they can approach the data fiduciary or consent manager or can approach the board established under this act. It shall be the duty of the data principal to comply with the provision of this law and must ensure impersonation. Also, the board or the fiduciary must ensure the not to register false grievances or complaints. The following are the exceptions, The data can be processed for enforcing any legal right by any court or tribunals for prevention detection, investigations, or prosecution of any offences for ascertaining the financial information, assets and liabilities of persons who defaulted to pay the loan or debts.<sup>10</sup>

### **THREATS TO DIGITAL PRIVACY:**

- Cyber attack: Various attacks like phishing, hacking, possess the risk to the individuals and their sensitive data. Breach of data leads to identity theft, and financial frauds.
- Lack of awareness: as people, lack of awareness on digital privacy. Safe online practices became a prey to the Cyber attackers
- Artificial intelligence: The adoption of latest technologies introduces various privacy challenges, data manipulation, etc., Deep fake as a recent concern that violates privacy and loss of control on personal information.

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<sup>8</sup> Sec 72A Of IT Act, 2000

<sup>9</sup> Sec 4 of DPDP,2023

<sup>10</sup> Sec 17 of DPDP, 2023

## GLOBAL PERSPECTIVES ON DATA POLICIES

In EU, GDPR, 2018 - General data protection regulation grants the individuals to take control over their personal data by determining who can access and harmonize the data protection laws strict regulations on organisation for processing the data In Canada, PIPEDA, 2000: Personal information protection and electronic document act. This regulates the private organisations by laying the guidelines for regulating the personal data handling methods by ensuring transparency and accountability. In Japan, APPI 2003: Act on the protection of personal information deals with the way of handling the personal data and highlights the rights of the individuals, their protection and accountability of the intermediaries. In US, CCPA, 2020: This grants robust privacy rights to improve the protection of the consumers and their data. Applicable only for California. In Singapore, PDPA, 2012: Personal data protection act, this act uphold the privacy right of an individual and it establishes the rules and responsibilities for data practices and data privacy.

### WAY FORWARD

- 1. Harmonization of Consent Standards:** International cooperation is essential to establish uniform consent standards that facilitate cross-border data transfers while protecting individual rights. This could involve the development of a global framework for data protection that aligns with existing laws.
- 2. Strengthening Enforcement Mechanisms:** Regulatory bodies must be adequately funded and empowered to enforce data protection laws effectively. This includes increasing the capacity of Data Protection Authorities (DPAs) to investigate violations and impose penalties.
- 3. Enhancing Transparency and Data Subject Awareness:** Organizations should prioritize transparency in their data handling practices and actively educate individuals about their rights.
- 4. Incorporating AI-Specific Data Protection Guidelines:** As AI technologies continue to evolve, it is crucial to develop specific guidelines that address the unique challenges posed by AI in data processing. This includes considerations for algorithmic accountability, bias mitigation, and data minimization.
- 5. Encouraging Cross-Border Cooperation:** Countries should work together to establish data protection adequacy agreements that facilitate international data transfers while

ensuring compliance with local laws. This cooperation can enhance global data protection standards and foster trust among consumers.

### **CONCLUSION:**

As India advances growth towards the digital world, the government must reaffirm the data protection by collaborating with various agencies, private sectors, and cross-border Cooperation. The Mandate of Digital literacy in higher education strengthens the enforcement mechanism. By adopting the good security practices, cyber security can prevent the individual from falling into the prey of the attackers, being a victim of identity theft to ensure safe digital practices and experiences.

