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DATA PROTECTION AND PRIVACY LAW IN INDIA: CHALLENGES IN DIGITAL ERA

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INTRODUCTION:

You ordered a dosa last night on an app and the next day your neighborhood, other platforms and many apps already knew your eating habits, preferences and earnings. You visit various sites and there's an option of: I Agree, and you click on it, just know that you have given access to your personal data, location and various other details. You are randomly surfing a handbag for your mother on a particular shopping site, and the next day, you get notifications from other shopping applications about the same, have you ever thought who and where does this come from, whether it is risky, or is our data even in safe hands? Most people don't even read the privacy policy before tapping on I Agree. Imagine, someone knowing about you or your family, more than you yourself, of where you go, with who you are, which pictures to upload and from which application you prefer to buy various things, isn't it unsettling how unaware we are of all the details. For those who journal or write a diary (which is meant to be personal), have you ever thought that with every click on your phone you are handing your entire lives to strangers? But in the modern times we polish everything, and it is termed as DATA PRIVACY. But, for most of them it is an abstract idea, until it takes place with them or anyone related to them.

MAJOR CONCERNS:

It is nothing new, that various headlines, news articles and magazines make breaking lines for data breach. It has become too common, which is a major issue. People consume information, morally preach others and then forget the next day, as if it weren't there. Yet, they cannot be

entirely blamed, because no lay man is expected to understand such legal language written in those 30 pages of privacy policy. Just spreading awareness alone is not enough, education on those particular laws and implementing the awareness, is the real bullseye. The responsibility belongs to the government, to take care of people, to warn them of consequences, build powerful protection systems and create laws which do not blame the citizens but, in turn help them by making sure that it doesn't happen again. Many more challenges like data breach¹, cybercrime², social media misuse, overseas data transfer, breach of privacy etc. are still prevalent.

Right to privacy was not a fundamental right distinctly mentioned under the constitution of India. However, the landmark case of *Justice KS Puttaswamy vs Union of India*³ turned the tables and explicitly mentioned Right to privacy as a fundamental right, protected under Article 21⁴. It also over ruled, the previous rulings (*MP Sharma vs Satish Chandra*⁵) which didn't consider it as an absolute right. This right has become more significant as collecting data from people by various means like the state and companies through a process, is at its core. Therefore, the judgement laid by the Supreme Court safeguards freedom of choice and upholds the human worth.

Imagine, you provided all your personal data to a company and the company leaks the data, or misuses it in any manner. Where and to whom do you state your grievances to? There was no single unified law or place for the same, but after 2023 the same situation changed because, The Digital Personal Data Protection (DPDP), Act⁶ came into existence. It is a framework which balances both the things: lawful usage of data, and protection of citizen's privacy. It also provides individuals with various rights such as right to information, deleting data which is no longer in need, to know what is incorrect and to seek redressal. Therefore, it regulates the usage of personal data to various companies and organizations, also to ask for permission before processing the data, for professional usage. But duality always exists no matter what law or thing, we talk about, so everything on paper may sound perfect and promising, yet what truly matters, is its implementation in practical life.

¹ IBM Security, Cost of a Data Breach Report 2025.

² Indian Cyber Crime Coordination Centre, National Cyber Crime Portal.

³ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

⁴ INDIA CONST. art. 21.

⁵ M.P. Sharma v. Satish Chandra, AIR 1954 SC 300.

⁶ The Digital Personal Data Protection Act, No. 22 of 2023, India Code (2023).

Demand for enhanced data protection:

There is a need for strong protection of data, as technology is increasing every day, and with the growth of technology, the problems faced by citizens also increase. Security, accountability, literacy, and autonomy become crucial contributors to data protection. Companies and organizations need to take this seriously and strengthen the cyber security, for people to rely on and provide information to. To take actions and impose penalties on those who breach, fairly distribute the accountability, and not just blame an individual (company, government, people) for everything. Educate people about their rights and liabilities in a simple language, and impart equal education, ranging from the highest income group to below poverty line, making everyone well aware. There was a major pronouncement regarding privacy rights by the Indian Supreme Court, in the case of *Kharak Singh vs State of Uttar Pradesh*⁷. While there has been no declaration by the Indian Supreme Court regarding any right to privacy, there have been laid out certain guidelines that need to be followed.

Many small-scale businesses might face challenges in implementation of data protection framework, due to limited resources, therefore a well equipped and balanced framework should be made, to suffice both top tier companies or organization and small-scale business or startups.

CONCLUSION:

The next time you order food from an app, tap on I agree, search for a handbag; remember, now a law exists which protects your data. Yet, few challenges of enforcement, awareness, accountability and breach still persist. Law has been passed, for data protection of citizens, yet data breaches will continue happening, which is an uncomfortable truth. Just like how a company is incomplete without its members, a good legislation is incomplete without its staff. Therefore, well trained, honest and responsible authority for executing law is essential. India, is still in the midst of development, so technological advancement and data protection should go hand in hand. Coming back to the same question, whether data is in safe hands? Not yet, but India has the caliber to build it.

⁷ *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295.