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Data Privacy in Data Driven World

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ABSTRACT

Internet in India has a fascinating history. It has been observed that there has been a tremendous growth in the internet users over a period of time. According to one such report by University of Pennsylvania, it has been observed that the number of internet users have rose from 394 million to 1.858 billion in the time span of 9 years from 2000 to 2009; since then, the numbers have grown rapidly. Today it can be said that the internet has provided us with a parallel universe giving us a digital identity for every individual. Internet and social media have become a base platform for many businesses, with almost 2 billion websites worldwide. Our daily lives are somehow represented on these virtual platforms. For many people internet and social media are their livelihood, their bread and butter to survive in this fast-growing world. Here comes the role-play of Data Privacy. In this fast-growing world, many people are unaware of this concept of data privacy. This Article basically explains about the people's dependency on internet, why data privacy is important in today's world and what are the laws related to the protection of our digital identity on a virtual platform. This Article also talks about the Bills which were introduced in the parliament for data protection. In the end this article also raises a question are all these laws sufficient enough to protect us from getting exposed virtually?

Keywords: Data privacy, Data breach, India, Right to Privacy, Constitution.

I. INTRODUCTION

Internet in India has a fascinating history. It is a part of one such field that is constantly growing every year. The number of internet users have grown tremendously over a decade. According to one such report by University of Pennsylvania², it has been observed that number of internet users have rose from 394 million to 1.858 billion in the time span of 9 years from 2000 to 2009, since then the numbers had grown rapidly. In present times, according to Internet World Statics report³, the growth of internet users from 2000-2022 has reached to 1,416%, amongst which Asia has the highest percentage of internet users with 53.4%, whereas Europe consists of 14.3%,

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² *Internet users and usage* (no date) *Information People and Technology*. Available at: <https://psu.pb.unizin.org/ist110/chapter/1-4-internet-users-and-usage/> (Accessed: February 1, 2023).

³ *World internet users statistics and 2023 World Population Stats* (no date) *Internet World Stats*. Available at: <https://www.internetworldstats.com/stats.htm> (Accessed: February 1, 2023).

and Africa with 11.5% of its total population.⁴ Simultaneously, there is an average of 40,000 of google searches per second which equates to an average of 1.2 trillion searches worldwide per year.⁵ From all these data it can easily be said that our world is growing at a fast rate every single day. Today it can be said that internet has provided us with a parallel universe giving us the digital identity for every individual. Internet and social media have become a base platform for many businesses, there are almost 2 billion websites worldwide⁶. Man is a social animal; he likes to socialize according to his needs and requirements. It can be said that internet has made our lives easy by providing us a platform to get our work done. Our lives and work depend on these platforms provided by the internet. Now the question arises that are these businesses safe in terms related to the information provided by the customers.

Here comes the role play of Data Privacy. All these platforms basically work on our data, our information such as what we like, what we dislike, our interest area, and much information based on the individual's personality etc... The main question arises here now is that weather Right to Privacy is our basic right or not?

It is one of the most controversial topics ever discussed in a country. Right to Privacy became an issue of concern when the judgement of *M. P Sharma v Kharak Singh*⁷ reached the media surface. Making a headline by a nine-judge bench- Right to Privacy does not fall under the ambit of Fundamental Right, meaning that Right to Privacy is not a Fundamental Right but as a special element of personal liberty under the Constitution of India.

Case of *M. P Sharma v Kharak Singh* raised a serious issue on protection of identity of every individual in the virtual world. Shortly after that, in the case of *Govind v State of Madhya Pradesh*⁸ Supreme Court finally took into the consideration that identity of any individual on a digital platform or any information of any individual is an important part of any human, therefore it becomes important to protect this sensitive information from getting exposed to the wrong hands. Hence, the court held that, Right to Privacy is a Fundamental Right under Article 21 of the Indian Constitution.

Later on, there were many cases observed related to various issues related to Data Privacy in India such as, the recent ban on few apps by Indian Government, it was reported by Indian

⁴ Liedke, L. (2023) *The ultimate list of online business statistics (2023)*, *The Ultimate List of Online Business Statistics (2023)*. Available at: <https://wpforms.com/the-ultimate-list-of-online-business-statistics/> (Accessed: February 1, 2023).

⁵ Ibid.

⁶ Ibid.

⁷ 1954 AIR 300; <https://indiankanoon.org/doc/1306519/>

⁸ 1975 AIR 1378N1975 SCR

News channels that these apps are bans due to various data breaches done with the user with other nations, meaning the sensitive data of the user of the apps have been shared with the 3rd party, here in this case the information was shared with other nations. Similarly, there was a case of data breach reported in the country with an airline⁹. It was reported that in 2021 more than 4.5 million passengers' details were compromised and were available online.

Data breach in today's era have become a common issue and can easily be seen in our daily lives. According to reports¹⁰ there are various data breaches which are reported every year. These breaches were accused on famous companies like Facebook, Air India, Upstox, Mobikwik, Big Basket etc... It has been reported that Hyderabad is the new hub of cyber-crimes and cyber frauds.¹¹

II. WHY DATA PRIVACY IS IMPORTANT?

It has been observed that privacy is something which has been considered an important issue even before digital era came in play. Earlier people used to secure their documents inside safes and lockers which were made up of strong metal. Now a days, since technology has been developed and advanced people engage themselves with different websites which indirectly stores some of the information of the user- leaving the user unaware of this practice. Further this information can be misused and can be made public which may lead to cybercrime or continuous spamming of advertisements; therefore, privacy becomes fragile and important to protect.

Recently, in one of the articles by Times of India, it was claimed in a survey that- "*6 in 10 Indians report personal data breach by loan service provider*"¹². It was observed that almost 59% of the Indian are having a pre-existing loan by alternate service providers and the information of the person is being shared with the third parties. In the survey conducted by Times of Indian¹³, it was observed that- most of the personal data breaches took place in

⁹ *Air India Data breach: Login ids, passwords of airline's B2B customers compromised* (2022) *Air India data breach: Login ids, passwords of airline's B2B customers compromised*. Available at: <https://www.businesstoday.in/latest/trends/story/exclusive-if-you-flew-air-india-your-data-could-be-compromised-346626-2022-09-07> (Accessed: February 1, 2023).

¹⁰ -, A.I.S. (2021) *5 major data breaches in India in 2021: Air India, Dominos, Facebook, and more*. Available at: <https://www.91mobiles.com/hub/5-major-data-breaches-india-2021/> (Accessed: February 1, 2023).

¹¹ *Hyderabad emerges as hub of cybercrimes, every fifth fir is registered by a cyber-fraud victim* (2022) *India.com*. Available at: <https://www.india.com/tehran/hyderabad-emerges-as-hub-of-cybercrimes-every-fifth-fir-is-registered-by-a-cyber-fraud-victim-5598494/> (Accessed: February 1, 2023).

¹² *TIMESOFINDIA.COM / Nov 16, 2022 (no date) 6 in 10 indians report personal data breach by Loan Service Provider: Survey - Times of India, The Times of India*. TOI. Available at: <https://timesofindia.indiatimes.com/business/india-business/6-in-10-indians-report-personal-data-breach-by-loan-service-provider-survey/articleshow/95563738.cms> (Accessed: February 1, 2023).

¹³ *Ibid*.

financial service sectors as of 59% of the people faced data breach by loan agencies, 40% by insurance company providers and 34% by the banks.

All these data shows that a person is born with a social identity naturally but creates a virtual identity knowing or unknowingly. All those information which are supposed to be sensitive and private can be easily shared with the third party or misused or can be a target of cyber-crime if remained unaware about the laws and need of data privacy in this fast-growing world.

III. WHAT ARE THE LAWS RELATED TO DATA PROTECTION IN INDIA?

After a landmark case of *K.S Puttaswamy v. Union of India* judgment¹⁴- Supreme Court finally took into the consideration about the importance of an individual's identity on a virtual platform as any information of an individual is an important part of a human, therefore it becomes important to protect this sensitive information from getting exposed to the wrong hands. Hence, the court held that, Right to Privacy is a Fundamental Right under Article 21 of the Indian Constitution.

The case of *K.S Puttaswamy vs Union of India*, the judgment was mainly focused upon the growing digital era. In 2017, after the case of *K.S Puttaswamy vs Union of India*, Ministry of Electronics, and Information Technology formed a committee consisting of experts of the fields. The committee was headed by Justice B.N Shrikrishna. The main aim of this committee was to work upon the framework and mechanism of digital India.¹⁵ Justice B.N Shrikrishna along with his committee proposed a bill name as Draft Personal Data Protection Bill, 2018. This bill consisted of different rights and principles to govern and protect the use of internet and the personal identity getting exposed on a virtual platform. Later on, the Draft Personal Data Protection Bill was amended and becomes Personal Data Protection Bill 2019 and presented in the Parliament. Personal Data Protection Bill 2019 was a modified version of Draft Personal Data Protection Bill, 2018. Present Bill is the modified and developed version of the previous Bill as it covers the wide ambit and scop of data protection after observing an exponential growth in the technology. The growth in the field of technology has its own advantages as world is becoming shorter day- by- day and nothing is impossible to achieve in the field of technology but it also has its disadvantages as there is rise in the number of cyber-crime, data breaches, online frauds etc.... The new Bill named as Personal Data Protection Bill 2019 tried to cover maximum of these areas. But when Personal Data Protection Bill 2019 reached Parliament, it

¹⁴ Author, B.G. (2022) *The Genesis and evolution of India's data protection and privacy regime*, *MediaNama*. Available at: <https://www.medianama.com/2022/12/223-genesis-evolution-india-data-protection-regime-views/> (Accessed: February 1, 2023).

¹⁵ *Ibid*.

received heavy criticism upon the various faults which were found during the examination of the Bill 2019, Parliament also raised the question upon the powers given to the committee members.

Later on, Personal Data Protection Bill 2019 was withdrawn from the Parliament and a new Bill was introduced in 2021. The Bill names as Digital Personal Data Protection Bill, 2022. Digital Personal Data Protection Bill, 2022 was an upgraded version of the Personal Data Protection Bill 2019. Then new Bill 2022 was a modified and upgraded version of the last Bill- 2019 and was made keeping all past criticisms in mind. Digital Personal Data Protection Bill, 2022 consisted of different rights and principles to govern and protect the use of internet and the personal identity getting exposed on a virtual platform, it also consisted of different rights and principles to protect a person identity getting exposed virtually. Digital Personal Data Protection Bill, 2022 also introduced the punishments and fines in order to reduce the chances of upcoming data breaches and cyber- crime by setting up strong principles. Setting up heavy fines and punishments reduces the chances of escape of the offence committed online.

IV. CONCLUSION

Our government may introduce these Bills to protect us from getting exposed and being a target of cyber-crime. Since there is an exponential growth in the field of internet and technology - Internet and social media have become a base platform for many businesses, there are almost 2 billion websites worldwide¹⁶. It can be said that internet has made our lives easy by providing us a platform to get our work done. Our lives and work depend on these platforms provided by the internet. Now the question arises that are we as an internet user safe every time while using the internet?

It is something that can't remain constant or left once it is addressed. It has come to a point that with the growth of technology, our laws protecting us should also growth with them making a secure environment for everyone.

¹⁶ Supra Note 4.