Page 1040 - 1044 **DOI:** *https://doij.org/10.10000/IJLMH.112620*

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 5 | Issue 1

2022

Need for Sensitive Information and Data Protection Regulations in India

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ABSTRACT

Data privacy and protection helps to secure the personal information of our clients and users, which can also be called information security. Data protection of personal sensitive data is a necessity, data principles and data fiduciary are few of the terms which are discussed in the bill. Earlier few provisions were not included in the act but later the recommendation by the B.N Srikrishna committee helped in the introduction of two important provisions which are right to be forgotten and right to privacy. Consent is one of the main elements that regulated the data protection bill of 2019.

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

I. INTRODUCTION

Data protection and data privacy are terms that are used interchangeably. Still, we will understand the difference, that data privacy lies down to who can or has access to data. Data protection provides rules or a method that restricts access to data and personal sensitive data information. During covid, we saw many organizations come up with issues related to data breach, so it is more essential to have laws and regulations which govern and ensure that the data of their customer, clients, and users are protected. The USA and EU have privacy laws that govern unauthorized access to the data, but India still doesn't have legislation regulating data protection and privacy. The IT act governs it, and if India gets their PDPB, it will help them protect the sensitive data of their residents. We need these regulations so that any person or third party does not misuse the data stored by the businesses. As we can see, there are political and economic changes happening, leading towards the need for the privacy law and increasing concern for the users and 3rd party regarding keeping their data secured. Still, 20 percent of countries don't have legislation for protecting data, and 5-6 percent of countries that don't even have data of their users or own citizens, but some countries have their own law and regulation for protection of data & have drafted legislation.

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II. DATA PRIVACY & DATA PROTECTION

The article mentioned talks about sensitive information personal data and its protection. So "personal data" is the data that consists of individual information related to a natural person and also the sensitive data related to that person, such as their passwords, health conditions details, biometric data, and other banking data. Any third party can use this data for any kind of breach or any unauthorized purpose. "Data privacy and protection helps to secure the personal data & information" of our clients and users, which can also be called information security. The organizations use data protection to store and collect sensitive information data formulate different strategies to minimize information breaches and maintain the probity of the data. Data privacy is no tool, but rules guide how the information can be made available only to the certified parties. The information that comes under the ambit are the names, DOB, personal ID, numbers, contact information of the users, employees, and organization shareholders. It also lays down that the organizations using these data have fulfilled the prior requirement for using this information. The guidelines laid down under the data protection act should be adhered to by every organization. If any action has been done contrary to the rules, this might lose their brand value and impose fines for not meeting the requirements. To prevent such data breaches, we can limit access to such data and do modules for the employees to know the information security and organizations' data protection laws and software. GDPR & PDPB 2019 Europe has a GDPR, which governs the European clients in India in case of any data breach. California has CCPA, which allows its users to have "access to sensitive information". In the same way, India will have PDPB, a Personal data protection bill governing Indian companies and citizens. It also gives power to the DPA, which is the data protection authority, to add a new type of sensitive data category if the need arises. The data gathered should be stored in India only. If any organization or country wants to access sensitive information, such data should be made available after fulfilling the following requirements given under the protocols by the authority or board. The GDPR can be applied to Indian companies with foreign clients or companies located outside the EU. So there are strict regulations which are laid down in the GDPR that if any business or organization breaches the contract or does an activity which is violative of the directions provided, then that particular company might suffer penalty and fines. Different legislation in Europe used to govern privacy; then, they came up with the "GDPR" for controlling and monitoring the transfer of data and subjects. The government, companies, and various entities were allowed to use data of residents, providing the right to residents to object or ask to erase their data. The GDPR has high-security conduct and compliance to secure their data. That's how the need arises to have some significant changes

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in the laws and establish new "guidelines for data protection regulations in" India. We will also understand why it becomes essential to protect individual information & data and find which provisions govern sensitive information before the PDPB bill. What will happen when this data is going to be shared without the users' consent and knowledge?

III. SIGNIFICANCE OF I.T. ACT & PDPB IN INDIA

The PDPB is still under consideration. With the usage of data information, the importance of protecting data has increased at a global level. The IT act, 2000 governs sensitive information, and also article 21 deals in privacy of Indian constitution talks about the right to data security. New provisions have been inserted in the "IT act", such as section 43A, related to unauthorized usage, sensitive information, and punishment for disclosing any personal information. After many developments and changes in the Indian constitution, the PDPB bill suggested a separate act for securing the data of individuals. This article will help the readers discover data secrecy and the new regulations relating to protection of data in India. We will also come across landmark cases that helped evolve "data protection rules", such as the Puttaswamy judgment in India, no separate law that governs data privacy. If we talk about provisions governing Indian data privacy, then after the amendment in 2000, new sections were inserted in the IT Act, sections 43, 43A,66 C, E 72, 72A, and other It rules. So these sections lay down that if any data is extracted and used without the users' permission, then the individual or organization who has done this can be held for punishment, fines, and imprisonment when the offense committed is grievous. So it becomes important for the business to have policies to keep their data confidential and have agreements with their user and clients before collecting the data. The absence was felt when there was a lack of rules & processes to handle such practices. Now everything is being done digitally, & the authorities are also focusing on making India a digital platform where we have innovation and technology to secure the sensitive data of our citizens. The importance of protecting the data is that it will benefit more clients and businesses to keep a good" database of the users' information". The new bill has "personal data protection, sensitive data protection ", principles governing the information and data, and what is the basis to process such data. Consent is the primary provision that tells that there should be transparency. The reason behind data processing must be in good faith and should not have any other intention to defraud anyone. Also, we will have "authority for data protection and to secure and control it" which will be there to establish safeguards "related to the transfer of data and processing of the data" and a centralized mechanism for controlling the activity. In this article, I have discussed the evolution of GDPR and the Indian regulations dealing in privacy laws and have described various concepts related to it. Other than that, I have explained the

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need and significance of data protection and privacy in India, the new bill concerning Indian data protection, why there was a need to have such legislation, and how they can help to secure the users' personal data information. These laws are essential to protect users from exploitation. Indian constitution also recognized Indian data protection regulations under the article 21 which talks about privacy. We have also seen how the privacy law is evolving and how new are being enacted and many landmark judgments acts and amendments are contributing towards new legislations. Any data or information is regarded as a piece of "sensitive information" that should be secured and protected from any breach. People have trust in the processor that will protect their data. In India, we can see any update on this bill by the winter session of 2021, and still, till then, the IT Act will govern Indian data protection. Countries not having law to protect their data or are not able to protect their citizens' data results in the violation of their privacy rights.

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IV. REFERENCES

1. Lee A Bygrave, Privacy in data protection rules HEINONLINE https://heinonline.org/HOL/LandingPage?handle=hein.journals/swales24&div=25&id=&pa ge=

2. Kurt Wimmer, CIPP/E, CIPP/US, Gabe Maldoff & Diana Lee Covington & Burling INDIAN PERSONAL PDPB 2029 vs. GDPR https://iapp.org/media/pdf/resource_center/india_pdpb2019_vs_gdpr_iapp_chart.pdf

3. (GDPR) HEINONLINE KNOWLEDGE BASE https://help.heinonline.org/kb/general-data-protection-regulation-gdpr/

4. Muskan Parihar Big Data Security and Privacy 10 (IJERT) https://www.ijert.org/big-data-security-and-privacy

5. State IT Secretaries Conf. 1DP IN INDIA (12, 13 February, 2018) https://digitalindia.gov.in/writereaddata/files/6.Data%20Protection%20in%20India.pdf

6. 2 GUIDELINES GOVERNING THE PRIVACY AND TRANSBOARD FLOWS OF SENSITIVE DATA 27-28 ISSUE-2 1983.

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