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Data Protection Laws in India: Need of the Hour

Abstract

India is second largest populated country of the world. It also have the largest population of the young persons in the world. With the internet & smart phones being the necessity of the time data is the only thing left for us to transfer from one person to another. It is because of this reason the 21st century is referred to as 'the Information Age'. Today the most important thing that we see is the information that is being exchanged. The data of tomorrow has become the big data of today, thus making it more vulnerable with the accessibility. The present article is the critical summary of the circumstance's leading to the data protection & its requirement & analysis of data protection legal infrastructure in India.

Keywords: Data, Data Protection, Privacy, Aadhar, Information Technology, Cyber Law.

Introduction

India has seen a time of becoming digital India, when after the announcement of demonetization; government has come up with their slogan of digital India. The major aspects involved were making India a completely digitalized country, in which from every official work to daily work of every household should be digitalized. Then comes the importance of the word data & information, because of the fact that every digital transaction actually involves the data & information to be exchanged at various ends.

The word data has been in use in almost every field that a person is working with. The collection of the facts & figures can be termed as data. Each one of us is using data in one or the other way. The dictionary meaning of the word data is, 'The quantities, characters, or symbols on which operations are performed by a computer, which may be stored and transmitted in the form of electrical signals and recorded on magnetic, optical, or mechanical recording media'.

The word data has originated from the Latin word, *datum*, which means something to be given.

Very oftenly the word data has been used interchangeably with the word information. More or less both are signifying same thing which is the facts & figures in some point of time. But does that means it needs to be protected? For this we need to know the legal importance of these words. The protection of anything can be only guaranteed in the law. In India, we have Information Technology Act 2000, which actually protects the two. Also provisions were being made by which the data created, if lost or stolen; there would be punishment given & remedy available to the victim.

The Information & Technology Act, 2000 was passed under the international obligation to have the digital environment for the entire government & non-government setup. That makes it necessary to have clear definition of the words like information & data. These are must to have the legal environment at steady level for the protection & preservation of the information & data. The world is today looking data as the future property in itself. Recent events in India & abroad have also proved it to be so. Let us understand the legal definition of the two terms as per the existing legal structure in India.

The two terms are very much used in our present system, and are defined in the Information & technology Act, 2000. Information is what we use to pass from one person to another in the circumstances which require it to be circulated. The definition of the word, information as provided in section 2 (1) (v) of the information technology act 2000 is, '*information includes data, message, text, images sound, voice, codes, computer*



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programs, software & data bases or micro films or computer generated micro fiche.

This information use to travel from one source to another source & have a lot of data into it. Now let us see what data means for, in section 2 (1) (o) of the information technology act 2000 is, "data" means a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalised manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printouts magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer;

Thus it is clear that information includes lot of data and later is integral part of former. Many times these are also used interchangeably, but are not correct. The information is something which is available at many places in many forms, the important thing in it is the data, which it carries. Many types of data is available across the system which includes the personal data, sensitive data, critical data etc.

The data which is mentioned in the Information Technology act 2000, is necessarily be prepared in a formal manner & would also have a capability of being processed in computer system. This means that the data that is being referred here is the data that has some computer operations to it. The data that is stored in the computer is also a data as per the definition. Hence all the files which a user has created in the computer is also a data created. This has widened the scope of the definition of the word data. It is very essential that the data should be clearly understood. This is to understand what all is need to be protected & why if not protected would result into any controversy. The time was there when people can live in complete isolation, but with the present set up of the internet & social media being very important these days, it is very difficult to protect the integral information from reaching to hands which may misuse it.

The present article aims at finding out the best practices of the world in this regard of protecting data and would be comparing it with the Indian legal scenario. India being a country with a huge population, need to be very sure as to mis use of any of its data. With the western countries being very vigilant about their citizens, India should also think of protecting its citizens & their data from theft & being mis used.

A comparison of the best practices along with the fact that India is growing fastly as digitalized India, time has come to see that we also have enough & adequate laws in this matter. The article would bring out the understanding of the word data, what is all included in the definition of data, need to protect the data, & what would be the result of ignoring the protection of data.

Aim of the Study

The present study on the data protection laws in India is an approach to find out the probable aspects of the data protection in India. It also have a

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summary of the works already done so as to give a complete picture of the work already done in India so far. The present article aims to find out whether India have the possible structure to protect its data from all types of its destructions. Also the article will analyze the work done by govt through the proposed bill of the data protection 2017. The bill will be analyzed to see that if this can also solve the problems being raised by the present situations. The article aims to bring out a comparative analysis from the work done earlier, to present position, up to the suggestions of getting it done for the future.

This article would like to give a holistic approach to the readers about everything related with the data protection laws in India. It would also be probable that by this article govt can also make the necessary changes to the effect that it would result into a significant amendment to the existing laws. The aim of the article is to clarify the present position of the data protection laws in India.

Need to Protect Data

Data is considered to be the essence of any information. Without valid data there is no possibility of the exchange of the information. The data have the sensitive aspects which includes the details about the person as well as his financial details. Now many aspects of the data may be of the great concern to others, because of any ulterior motive. There may be a possibility of this data being exchanged without permission of the person, end up into the crimes. The data is not created of its own, rather we are creating the data by our different day to day activities. The age, occupation, qualification, bank details are some of the important data that we have created for us in the short span of our lives. But this data is the property of only individual, who can be considered as the owner of the data. This cannot even be the concern of the government to which the individual is subjected to. Thus the data is the creation of the individual, which is like the original work in the field of literatures and need the protection as that provided to the original work in the copyright.

The data like the name, age, address & qualifications etc., if get into the hands of the criminal mind person would lead to the identity theft. Not only that but this will have an adverse effect on the financial & property matters as well. There are several example in the western countries as well as in India, in which this type of the cases have come. By knowing the exact details of any person, it is also possible to get the new sim of the same company being issued. Using that cell number in the crime matters could lead to the confusion as to who committed the crime.

Understanding data protection:

The Problem of the Study

Data has become new form of property. The property which the human being is born with. This is very different from the property that an individual earn after paying the money. If that would have been the thing, it would be very easy to protect it. The nature of data is that it is very much abstract in itself. It does exist, & can be seen also but still it is not seen. The

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data which is explained before is of various types & also have various qualities in itself. The Information Technology Act 2000 defines various types of data, through main text & by the rules framed under the various sections. The rules of 2011 define a term Sensitive personal data or information under rule 3.

The Rule 3 of the 2011 Rules provides a list of items that are to be treated as "sensitive personal data", and includes *inter alia* information relating to passwords, credit/ debit cards information, biometric information (such as DNA, fingerprints, voice patterns, etc. that are used for authentication purposes), physical, physiological and mental health condition, etc. It is further clarified that any information is freely available or accessible in the public domain is not considered to be sensitive personal data. The definition has specifically excluded the data which can be revealed by the Right to Information Act 2005.

Now the issue is that various authorities, inclusive of that of government, are collecting this data. They are sometime the depository also. Thus a problem comes here that who can be approached when there is any deviation from the standard practices? The data which is at the disposal of the different people can also be mis used. Today in India, Aadhar is made compulsory by government for various purposes. Even the private players are asking for the Aadhar detail. There is a high probability of this being misused. Recently in Apex court an affidavit is being filed by petitioners, through rejoinder, a report which has come in newspaper, stating that there is more than 30 lakh Aadhar detail of people are compromised with.

Legal Analysis

Although the matter is already subjudiced, there is hearing going on, so one cannot comment on the reality of the news, but what if the matters found out to be correct some day? The situation could be very worse, if we find that the breach would have involved people from the government side. This leads to a general understanding that one really need to be careful when dealing with data. Only information technology act of 2000 is dealing with this issue. But that too partially. The word partially is used because of the reason of the data protection being made primarily the responsibility of the body corporates. By virtue of section 43 A of the Information technology Act 2000, it is the responsibility of the body corporates to ensure that there is security to the data in India.

The section actually provide for the matters where there is any breach of keeping the data intact with the authority that is authorized to maintain the data. The section of the act mentions as;

Section 43A in the Information Technology Act, 2000

[43A Compensation for failure to protect data. -Where a body corporate, possessing, dealing or handling any sensitive personal data or information in a computer resource which it owns, controls or operates, is negligent in implementing and maintaining reasonable security practices and procedures and thereby causes wrongful loss or wrongful gain to any person, such body corporate

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shall be liable to pay damages by way of compensation to the person so affected. Explanation. -For the purposes of this section,-

1. "Body Corporate" means any company and includes a firm, sole proprietorship or other association of individuals engaged in commercial or professional activities;
2. "Reasonable security practices and procedures" means security practices and procedures designed to protect such information from unauthorised access, damage, use, modification, disclosure or impairment, as may be specified in an agreement between the parties or as may be specified in any law for the time being in force and in the absence of such agreement or any law, such reasonable security practices and procedures, as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit;
3. "Sensitive personal data or information" means such personal information as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit.]

Now the issue is very clear that the data which is the creation of any person can be stored at various places, even inclusive of the requirement from the government. There may be a possibility of its mishandling. Although it is just an allegation today, but reasonable doubt has been created so far that this could have been used by various political parties for their own benefit. It is interesting to note that the phrase 'sensitive personal data or information' has not been defined by the Act. Chapter XI of the Act deals with the offences. Section 66 lays down the penalty for contravention of Section 43. This amounts to an imprisonment of upto three years or fine up to five lakh rupees or both.

Many new Sections have been added to Section 66 by the Amendment Act. They have taken the form of Sections A to F, and prescribe punishment for offences such as sending of offensive through communication service etc. (66A), dishonestly receiving stolen computer resource or communication device (66B), identity theft (66C), cheating by personation by using computer resource (66D), violation of privacy (66E), cyber terrorism (66F). The Act now prescribes life imprisonment for cyber terrorism. Sections 72 and 72A are provisions relating to the penalty for breach of confidentiality and privacy, and the punishment for disclosure of information in breach of lawful contract. Section 84 B and C are also newly inserted provisions which lay down punishments in case of abetment of offences under the Act as well as for attempt to commit such offences.

Along with the above objective, the present article would also like to cover following objectives, which are as follows:

1. Understanding the concept of data & information
2. Importance of data in India
3. Protection of data & its various types

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4. Infringement of data & its probable solutions
5. Understanding data & right to privacy
6. Legal protection of data & fundamental rights in Constitution of India.

Review of the Literature

Following material was refereed before this article was written.

The book titled Information Technology Law and Practice by Vakul Shrama (2007) mentions about the creation of data and its various uses in the day to day life. It has also mentioned various types of the crimes committed by virtue of the data theft these days. The book has given a detailed aspect of the data protection to be implemented as soon as possible.

Karnika Seth (2013), in her book titled; Computers, Internet and New Technology Laws, have dealt in detail as to what is the issues concerning the data creation & protection in the globe & in India. Her study also reveals of the probable misuse of the data. The book have a complete chapter on how the data has become a tool in the hands of the criminals all around the globe to harass law abiders. The need to protect the data & how one get the remedy has been given in detail

Justice Yatinder Singh in his book titled, Cyber laws (2010), wrote about the issues concerning data protection in India & other countries. He has also mentioned the UNCITRAL model law for the digital ways of electronic data interchange.

Articles written by Surabhi Agarwal (2018) in Economics time reveal the need for adoption of the techniques which the European Union has adopted to protect the sensitive data of the citizen in India as well.

Vaish Associates Article on Data Protection Laws in India.

The article is specifically speaking about the laws in India which are insufficient for the protection of data. The need to protect data at present time & in future is also highlighted by this article. For understanding the basic issues with the data protection, this article is very helpful for the researchers.

Majumdar & Co. Article on Data Protection in India.

The article helps the understanding of the correlation between the right to privacy & and the data protection. Although the first is enshrined in the Constitution of India, but later is also a part which cannot be separated. This article gives insight about reasons to protect the data as well.

Article by Raghvan, R., & Ramchandran, R. on Data Protection Law in India: An Overview

This article has given a general understanding of the laws which protect data in India. That is to say the information technology act, 2000 has been referred here & has explained the various provisions of same.

Concepts & Hypothesis

Data or big data that is being created a lot these days because of the fact the computers are in use everywhere for everything. Thus the data which is

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created by the mails which we send every day or the information that is collected by the government for various purposes, is all the property of the person concerned. Merely because some persons are its collectors or they are data entry makers does not make them the owners of the data. The data need the treatment only with the due permission of the concerned person. Even when the applications or the software's that are being used which are specifically ask permission to access the files in the computer or the smart phones should not be permitted to use that information for any other purpose. The data that is created by one person should also not be allowed to be sold off to someone other than the person whose data it is. It is quite often seen that the internet service providers like Google is also keeping an eye on its users. It also silently creates the data without the information of the concerned person and sale it off to the vendors in order to collect money. Similarly the social networking sites were found to be indulged in such activities. Recently Mark Zukerberg has also accepted that he had collected some information about its customers. This is very alarming, as without the knowledge of the customers the data is being created & also being sold out.

India although is a big country in terms of its geography & population, is also very big place for the creation of data. But, we have not adequately tried to protect our data. The absence of law has also worsened the situation. The need is to have the best practices of the world to be adopted for this.

The present article is written on the hypothesis that, Data protection is the requirement of today. The present ingress of the internet in almost all aspects of our life & creation of big data has made it must that we should regulate it. The regulation should also ensure that it is made on the lines of the best practices of the world. The data protection is need of hour, this should not be further delayed in what so ever condition. The present structure in India does not have anything to prevent the loss of data, along with the fact that it did not have any laws to protect the persons in case of data loss. The average Indian is unaware about the utilization of the data as well. The situation is very alarming and requires immediate action.

The whole basis of writing this article about data protection is to make readers & associated people aware about the fact that data protection has to be in place. Present hypothesis need to be proved that India is creator of big data today in world, but have none means to protect it. The need of the hour is to protect data of every India, be it non aware one. Because the data which one is creating by using any digital means goes un- noticed by the creator himself but not by the person who is keeping any eye on him. Thus the need of the present day is strict, tough & stringent laws for the data protection in India.

Methodology

The author has adopted doctrinal & explanatory methodology for present article. This methodology is precisely based on the secondary data relied by the author, which is mostly available

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with the books, online articles & deliberations at the various platforms. The present article aims at reaching to the fact that India need the protection of the data. Several instance have motivated author to write about the topic & it is reflected in the article.

Research Design

The present article has used the problem of data protection in India. The data is collected & originated mostly from the computer related works. This is used by the people who are watching closely what we are doing while we are connected. The ticket that we confirm online, the courses we visit for pursuing studies, or the items that we purchase online are all recorded & it then creates the data. This is then analysed to get the desired results. This problem is huge because of the fact that all the things are going unnoticed. No one takes care of the data created & its utilization. If the laws are not in place the situation becomes even more gruesome. Thus the present article have analysed all those issues in systematic fashion. The present article is based on the doctrinal method of research. The books & articles dealing with the issue were referred first & it was corroborated with the present scenario. Mostly the secondary data is used and the analysis is done based on the provisions of law in that. This is due to the fact that empirical survey was not possible in very short span of time. The data which is used by various stakeholders are not available perfectly or concisely. The estimates are only tentative. So to complete the research article it is more relied through the secondary data only.

Findings

The present work found that government of India is moving ahead with its national goals. It also wants everyone to be at par with the western countries. It is also clear that computers and the usage of internet are inevitable. Government is making everything day to day dependent on the computers & softcopies of the information collected. There is a discouragement to the hard copy or the documentation of the same. It is fine also as we are under the international obligation as well. There is no harm in becoming at par with the western countries or the developed countries.

Usually the data such as the name, address, qualification, gender, date of birth, etc. are the basic data that are used in almost every place for every purpose. Like in India, if you need the sim card for cell phone, this all is required. Likewise for having a bank account this information is very important. There is quite possibility that if this data is compromised with any other person, it may result into creation of any identity that can be mis used.

In India we have a very poor level of awareness about it, & so the data is easily exchanged & is transferred to many persons who may misuse it. Recently in 2018(thehindubusinessline.com, 2018) we have seen the controversy that led to the allegation to ruling party of mis using the data of people using a particular application. The notices that were sent by Government of India led to the effect that the particular company in US has decided to end up their business. The data could be of various uses, it may

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depend upon the person who is using it. The purpose could be good also, but there are reasonable doubts as well.

It could be seen that the Scandinavian countries are following a very good attitude over the data collection & protection so far. They do not have any policy in which the data in any form is asked from the citizens or any person. The government do not collect any data or information from any one. This is completely prohibited in those countries. Thus the entire system is within the control of the person who creates the data. There is absolutely no chances of any lapses or any requirement of the law does not arise.

After demonetization in Nov 2016, several such incidents have come forward, where the information of various people though their Aadhar card was compromised & huge amount of black money was laundered by some people. ("Demonetisation Was the Single Largest Money Laundering Scheme in The World: Arun Shourie") If we believe the news, only in one small district of Punjab state there has been lot of billions of currency has been withdrawn by some people using the Aadhar details of the labourers in MNEREGA. What would be the picture if this could happen at a massive level? Definitely the situation is very alarming.

The data is created by an individual should be his property only. Of course there are debatable issues, for the ownership of the data by citizens of a particular country, whether it is the data of the individual or that of the government? Author would strongly believe based on the judgement given by Supreme Court recently about the right to privacy. The data which is belonging to an individual is his own data; it has complete authority over it. Even the government cannot ask for the ownership over it.

What is more alarming today is the creation of the big data & its usage. The big data that is created is the data of an ordinary man, who is dependent on the government or other institutions for the various facilities that he requires for making his life easy in India. In no case this should be transferred or used without the permission of this person.

It does not matters if he is an ordinary man, who is unable to understand the consequences of his data leak & mis uses. The data is the property of the individual only, it should not be handled by any other person for its own gains. Recently the nine judges' bench of the Supreme Court has ruled that the right to privacy is the fundamental right of every individual. It is the basic part of the Article 21 of the Constitution of India. This decision has got a very big meaning for all of us. It means that if any individual so chooses, he may deny giving any information to the government also on account of his right to privacy.

But interesting here is to find out what is privacy? And what is its connection with the data protection or creation? The information like the name, address, age, sexual orientation, educational qualification, likings, political affiliations, choice in dress, religious values all constitutes data. This is also

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available to various authorities at various level in life of a person. The data is also required for availing many facilities also, like that of boarding to train, or hotel or getting a cinema ticket. No one actually bother to save this data, as everyone knows that this need to be given at various times. Hence the situation become difficult. There is creation of data, and there are takers also but there is no law to prevent its misuse. Hence it is imperative that we should create a law to protect our data & information as well.

It also means that if the Aadhar details, which is also a type of the data of an individual, if are asked compulsorily by any of the government facility may be rejected on account of violation of the fundamental rights. It is important to understand here that declaration of anything as the fundamental right have an impact to the effect that that is curtailment of the authority of the government. Thus if he privacy is the fundamental right of any person, it is against the interests of the government hence the later has to change its attitude of compulsion.

Conclusion

The inherent right over the data is of the person who creates it. The big data which is mostly talked about is created by using the computer & related aspects by various people. This is the creation of every individual & has nothing which can be claimed by any other person then the creator himself. The data thus created is also closely associated with the right to privacy. Which includes that if an individual do not want to share his details with any other person, he cannot be forced to do so? This is an integral part of the autonomy which the individual is enjoying. The laws should be framed to protect the interest of the individual & not the vice versa.

The above view is also supported by the much celebrated judgement of Supreme Court of India on Right to privacy. Recently in August 2017 the 9 judges' bench of Supreme Court (*KS Puttaswamy & Another*) in India has decided that right to privacy is the fundamental right guaranteed under article 21 of the Indian Constitution. If we look to the merit of the judgement, it clearly states that every individual in India have a basic right to have protection over his own privacy. The word privacy would have various aspects included into. The data which is created by the government in the form of the facts & figures about any individual would also falls under the same category.

The government of India has also tabled The Data (Privacy and Protection) Bill, 2017 on the issue of the data protection in July 2017 & wants that in response to the judgement, they can also ensure the protection of data from their side. The bill has proposed to have the right guaranteed under section subjected to the restrictions mentioned in article 19 & 21 of the Constitution of India. Which means that there is possibility of the usage of any data for the purpose of the sovereign functions? But what that could be is not defined in the bill.

The bill is applicable to the private persons as well as the government authorities. This is very welcome step, jut to the effect that the right to privacy

is the responsibility of not only the body corporates but also the government. Although it may lose to shine because of the fact that restriction mentioned in the article 19 & 21 are definitely favouring government.

Another aspect is that govt has proposed that the data protection act (if passed) would have an overriding effect on the Information Technology Act & the Aadhar act as well. Which means that if there is any lacuna left in the previous acts, this Act is going to eliminate it? This also provides for the formation of an authority that will be a separate authority then mentioned in previous acts, which will regulate & supervise all the data protection related matter. This means that the authority will also look into the matters concerning any dispute between the private parties or ordinary men and between government & customers. This is going to be very useful for a country like India. We really need the independent bodies, which can take care of the interests of the individuals.

The bill also makes it very clear that in cases where ever the government or any other authority need to have the information from the individual concerned, there has to be an expressed consent given by the person. The informed consent aspect is definitely going to ensure that there is no error on the part of the govt to collect the relevant data so far. The research question here would be to understand that what will happen when the government is going to make certain things as mandatory? Then what will happen to the basic right of saying no to the data transfer. The bill is silent at present. The author would like to suggest here that this problem should also be clarified here at all level. The data whichever is collected by govt should be with informed permission and it should not be used at all for any other purpose.

The bill has proposed that the person who is asking for the data to be transferred need to keep every ting informed & clear to the every person. Previously the rules of 2011 provides for the need to have a policy on the website but the present bill aims at the more specificity to it by giving every detail to the person concerned. This is also very good as to the effect that there will be surety & clarity on the privacy policy followed by the respective individual.

Another very strong provision made in the bill is the right of every individual to take back his consent or to change the consent or the data that is provided earlier. This would definitely bring some changes to the existing scenario. Previously none of the acts have so far given this liberty to any individual. This would definitely guarantee that there will be no misuse possible. The Aadhar act provides that the information once given cannot be changed even by the person, whose information it is. Unlike that the present bill is more strong & worthy of appreciation.

Section 10 of the bill provides, inter alia; 10. (I) Every person shall have the right to seek removal of personal data from Data Controller— (a) where personal data is no longer necessary with regard to the purpose for which it was originally collected or processed; or (b) where the person withdraws

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consent; or (c) where personal data has been obtained unlawfully; or (d) where personal data is required to be erased in accordance with a legal obligation pursuant to a Court order. (2) Notwithstanding anything contained in Sub-section (1), removal of personal data shall not be allowed if there are overriding legitimate interests and it is necessary

1. In the interest of fundamental rights;
2. For compliance of a legal obligation or court order or an any action taken by an officer in exercise of the power vested in him;
3. For establishing or defending a legal claim;
4. To safeguard public interest

This is really means the empowerment of the person giving information. However pertinent to note here that it is also not given without restrictions. For protection of the fundamental rights, for public interests & public policy there may be a possibility that this right may not be made available. At one hand it is good, but looking to the rate of conviction in our country & the fake cases also getting increased day by day one has to be very careful in this matter as well.

This definitely means that like the Scandinavian countries, India should also respect all the data & information of every individual to be treated as their own property. Then also comes to the issue whether this can be exercised in isolation? Can we see that in the democratic setup the governments would have no say to the data of its own citizens? Definitely the data of any citizen can be used by the government, but in no case it can be considered as the right created for them. The data created for the betterment of the citizens can be utilized by the government, but author believes it to be strongly at the discretion of the citizen whose data it is.

The harmful effect of the data in hands of governments can also be realized to the fact that it is alleged to have been used in the US elections as well ("How Huge Facebook Data Trove Was Used in Donald Trump US Election Campaign"). Now with this the effects could be very serious, as this may be the case of a democratic setup, what would happen if the same thing can be used by the military governments or the terrorist groups. The mere mis use of the data could be fatal. Although the, information of data being misused is under the scanner, we are yet to confirm it. But what if this is found to be true? This means we are now opening some of the dirty aspects of data misuse. Let us hope there will be respect for the data protection as we have the respect for the other form of property protection.

It will be of great significance that in India, govt could approve this bill & pass it to make it Act. The bill is very assertive & we have a lot of expectations from this. The initiative from the govt is very good & it will solve many of the issues in the data protection.

Suggestions

The present article had an aim to bring our notice that the data in India should be protected at every cost. The data is the next form or next level of

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the property, which is very abstract in nature. The author wants to make following suggestions in this matter:

1. The bill which is placed in Lok Sabha should be passed to make it an Act. There should be absolute protection of the data of any individual. Although for criminals, there should be no relaxation except their private information.
2. India should follow the pattern which the GDPR or General Data Protection Regulation policy being adopted by the EU in 2016. This is a very good way of protecting every type of data. The regulation is based on the basic aspect of the Notice, Purpose, Consent, Security, Disclosure, and Access & Accountability. In short have encompassed all the integral aspects of the data protection.
3. There is need of the massive awareness program in India. We all are now educated but are not aware. The govt or the NGO's should see to this that people are made aware about the issues of the data losses. This will bring two important changes, one that there will be no data theft. Secondly it will also ensure ease for the executive to administer the matter properly.
4. The methods which are adopted by the govt to protect the data should be made only after there is consensus among all the people. It is suggested here by that the time line provided to give suggestions for these matter should be more than the usual. Rather govt should identify the stakeholders in tis matters, & should get their view compulsorily.
5. Data is very important tool in the hands of the person who is processing or who is storing. Measures should be taken to protect the data from leak. So it is further suggested that the storing or processing of the data should not be given to any private players. If at all it is necessary due to lack of infrastructure for govt, this work should not be given to the foreigners in any case. There are examples in India & globe that majorly in matters of data leak he foreign companies have major role to play.
6. Data is very important these days, because of the computerization of every issue. It is the future of every litigation & matters with govt & citizens. It is high time that India should frame the laws in respect of protecting every data. Also we should think of protecting it like the intellectual property. Although initially people have not realized that this may create any problem, but recently with many of the news whereby the data is used for the political benefits & also for committing crimes, it now the major issue to be addressed properly. With the above article it is submitted that govt should treat it to be the matter of priority & pass the bill with amendments on lines of the best practices of the world.

References

1. Agarwal, V. (2012). *Privacy and data protection laws in India. International Journal of Liability and*

E: ISSN No. 2349-9443

Scientific Enquiry, 5(3/4), 205. doi: 10.1504/ijlse.2012.051949

2. Chikermane, G. (2018). Aadhaar breach is serious, but bigger challenge is a data and privacy protection law | ORF. Retrieved from <https://www.orfonline.org/expert-speak/aadhaar-breach-serious-bigger-challenge-data-privacy-protection-law/>
3. Dalmia, V. (2017). Data Protection Laws in India - Everything You Must Know - Data Protection - India. Retrieved from <http://www.mondaq.com/india/x/655034/data+protection/Data+Protection+Laws+in+India>
4. Fatima, T. (2017). *Cyber law in India* (1st ed.). New Delhi: Kluwer Law International.
5. India lacks legal framework to ensure data protection, say experts. (2018). Retrieved from <https://www.financialexpress.com/industry/india-lacks-legal-framework-to-ensure-data-protection-says-experts/1117580/>
6. Madiwalar, M., & Prof B.S. Reddy, P. (2011). A Critical Analysis of Data Protection Law in India. *Indian Journal of Applied Research*, 3(10), 1-2. doi: 10.15373/2249555x/oct2013/60
7. Majumdar & Co. (2005). *Data Protection in India*, Majumdar & Co. Mumbai: majmudar & Co. Retrieved from <http://www.majmudarindia.com/pdf/Data%20Protection%20in%20India.pdf>
8. PwC. (2018). *An overview of the changing data privacy landscape in India [Ebook]* (1st ed., pp. 3-7). Mumbai. Retrieved from <https://www.pwc.in/assets/pdfs/publications/2018/an-overview-of-the-changing-data-privacy-landscape-in-india.pdf>
9. Raghvan, R., & Ramchandran, R. (2013). *Data Protection Law in India: An Overview*. Retrieved from <http://lex-warrier.in/2013/01/indias-data-protection-law-an-overview/>
10. Singh, S. (2011). PRIVACY AND DATA PROTECTION IN INDIA: A CRITICAL ASSESSMENT. *Journal of The Indian Law Institute*, 53(4), 663-677. Retrieved from http://14.139.60.114:8080/jspui/bitstream/123456789/12241/1/026_Privacy%20and%20Data%20Protection%20in%20India_A%20Critical%20Assessment%20%28663-677%29.pdf
11. Saxena, S. (2017). *Data Protection in India | Live Law*. Retrieved from <http://www.livelaw.in/data-protection-india/>
12. Sharma, V. (2016). *Information Technology Law and Practice: Cyber Laws and Laws Relating to E-Commerce Paperback* (5th ed.). New Delhi: Universal Law Publishing - An imprint of Lexis Nexis.
13. Seth, K. (2016). *Computers, internet and new technology laws* (1st ed.). New Delhi: Lexis Nexis.
14. Tzanou, M. (2013). Data protection as a fundamental right next to privacy? 'Reconstructing' a not so new right. *International Data Privacy Law*, 3(2), 88-99. doi: 10.1093/idpl/ipt004
15. Tandon, U. (2018). *Why India can't afford to delay data privacy law*. Retrieved from <https://www.dailyo.in/technology/data-theft-cambridge-analytica-facebook-cyber-attack-right-to-privacy/story/1/23369.html>

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