

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

www.ijlra.com

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Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmanagarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

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Assistant professor of Law

Mrs.S.Kalpna, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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Data Protection And Internet Privacy

Authored By- Anchal Nigam

Abstract

A place which has over 700 million internet users, where data is always stored and transferred every second, where on an average 6-8 hours of a day is spend on internet by each person mainly for surfing, social media and browsing, where each app requires certain mandatory data before using the app, it is the duty of legislature to maintain law to keep everyone safe on this network, this article elucidates the safeguarding principals on internet and data, it helps even a layman to understand that their data is safe in India and internet which is one of the most vital thing is also protected and assures that privacy of an individual is supreme.

Introduction

Data, which includes infinite number of things, from a small information of a person's name to information about a person's bank account, adress, contact number , everything is a data. In this technological and mechanised world, in which everything is digital and done through internet, there is a sense of breach of privacy, fraud and many types of cybercrime. Internet plays a vital role in everyone's life, it not only helps to connect people from one corner to another through social networking sites like Facebook, WhatsAap, Instagram etc but also encourages several other things, such as online shopping, business, and now even digital education. Presently, internet allows to impart knowledge from one corner of the globe to another digitally. Anyone and everyone can learn things by just sitting at home.

Data privacy is an aspect of Information Technology (IT) which deals with ability of an individual or an organisation to determine and assure which data will be shared by the third party. In India, Data and internet are protected and secured through governance of two laws. Firstly, Information Technology (IT) Act, 2000, secondly , Data Protection Act, 2018.

Analysis

Information Technology Act 2000, protects privacy on internet, it assures a person can use internet without any hesitation of being hacked, fraud and safeguard online privacy and dilutes it. It implements electronic transactions, exchange of data in electronic mode, electronic commerce transactions etc. It validates all the e communications, e-contracts, e-transactions, prevents cyber crimes, hence popularly known as Cyber Law. Apart from this, it also recognises digital signatures, establishes cyber regulatory appellate tribunal and most importantly secures internet usage.

Specific Sections Which Ensure Protection Of Usage Of Internet

Section 66 of IT Act prevents hacking, it says that if a person wrongfully commits or intends to commit any alteration, deletion, modification of any kind of information from a computer source with the aim of causing or knowing to cause unjustified loss or damage to the public or any individual will be either imprisoned upto 3 years or fined upto Rs 500,000. Section 66C of IT Act states that if a person fraudulently uses password, digital signature or unique identification number of another person then he/she will be imprisoned upto three years or fine upto Rs 100,000.

Apart from securing commercial aspect of internet, IT Act also protects personal rights of a person, which makes internet usage more secure, Section 66E of IT Act specifically states that if a person captures, steals, transfers or publishes private picture of any person without his/her consent then he can be imprisoned upto 3 years or with a fine upto Rs 200,000. Section 67 prevents publication of obscene information in any electronic or internet media, it induces punishment of upto 7 years of imprisonment or fine upto Rs 10,00,000. Section 67B of IT Act prevents publication of child porn or predating of childrens online, it induces imprisonment upto 3 years or fine upto Rs 200,000.

As there is a constant increase in usage of internet, these laws are highly pertinent. I would like to cite the case of, Pune Citibank Mphasis Call centre Fraud , in which \$350,000 was fraudulently transferred to few fictitious accounts via internet, the employers obtained trust of clients dishonestly and acquired PINs and account details, they didn't even decoded the encrypted software and used the information with malafide intention, because of the nature of the illegal act committed by fraud transactions through internet, section 43 of Information Technology Act was imposed which orders a person to compensate for unauthorized usage of information on internet, apart from this section 66 and 420 was also applicable.

Highlights Of How Data Protection Act Ensures Protection Of Data

The protection or privacy on internet is as vital as privacy of data, until and unless data of a person, society or organisation is not secured and protected, protection of internet usage does not play pertinent role. Data protection and data privacy are slightly different things, data protection is mainly protecting the data from unauthorised use, whereas data privacy defines who has authorized access. If we look around us, almost everyone is using a mobile phone, PC etc in which there is constant requirement of data, necessary for verification of a person's identity, even when a person sign up for a gmail account , it is necessary to give data about one's contact details, from this to paying money online, data of bank account is given to that particular app.

When a person gives any type of data, there is a point of doubt regarding whether the given data is safe or protected and there should be no misuse of data. To protect a person's right to privacy of data, Data protection bill was passed in 2018 which ensured several things to safeguard consumers or information provided by them. It defines data and specifically highlights how a data must be processed, it covers collection, manipulation, sharing and storing of data in an ideal manner to safeguard people as a whole.

All the data which is stored in any type of website, app or in any other technological means is being regulated and governed by Data Protection Act, 2018. Few highlights of this act which surely helps in encouraging people's belief in exporting their data are as follows-

- The Act governs how public and commercial organisations with domestic and international business registrations (data fiduciaries) process the personal data of persons (data principals). If only the person consents, there is a medical emergency, or the state needs the information to provide benefits, processing is permitted, otherwise no matter what data cannot be processed by anyone.
- The data principal has a number of rights to their data, including the ability to request a correction or request access to their data that is kept by the fiduciary.
- The fiduciary is obligated to notify the individual about processing of their data, specifically what is the purpose of acquiring such data, how will the data be used etc.
- The act also keenly looks into the national interest, as it permits processing of data in necessary legal processes, journalism etc.
- It stipulates that certain type of personal and security data needs to be stored in the country only and cannot be transferred outside the territory.

Apart from the above highlights of the act, it also enhances the security among individuals by setting up the Data Protection Authority (DPA) which will regulate and supervise the data fiduciaries. The authority is one of the vital assurance to the individuals regarding regulation of their data.

The act states that the data fiduciaries must regulate the data in 'fair and reasonable manner' which was further upheld by the Justice Saikrishna committee that the principles of reasonableness and fairness must be constantly updated according to the time being and the work by different data fiduciaries.

The point of national interest, was questioned but when we refer to judgment of *K.S Puttaswamy Vs. Union of India*ⁱ, which upholds the principle of right to privacy of an individual also exempts privacy in the cases of national interest, legal proceedings, research purposes etc. This case declares privacy as the fundamental right of an individual but at the same time it exempts right to privacy in the cases of national interest, research etc.

Therefore, the act surely is the safeguard and assurance principal of every individual to give their data, either personal or professional without any hesitation as it protects the person's rights and data as a whole, in this required-data-consuming society. Without a doubt, these laws primarily focuses on the usage of data and internet connectivity which eventually leads to upgrade the well being and economy of the country, data fiduciaries will work with responsibility and customers will be safeguarded from any kind of fraud or data leakage.

ⁱ (2017)10 SCC 1

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