



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

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# DATA BREACH

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## ABSTRACT

The rapid growth in advancement of science and technology have compelled legislature of every country to enact strict laws . In recent years the cases of data protection has been increased. Right to privacy includes right to protect one's data also .Though many legislations are there which talks about data protection for instance Article 19,21 of Indian constitution, Indian Penal Code, Information Technology Act, still data protection has become a big concern for the individuals as well as the lawmakers .The purpose of this research paper is to study the existing laws relating to data protection and under standing the concept of data protection .For writing this research paper I have used many statutes including Indian constitution, IPC, RTI, And IT Act.

**Key Words;** Data Protection, Indian Constitution, Information Technology Act, Indian Penal Code.

ThisdescriptivestudyusesDoctrinalMethodtoobtaintheneededdata.Adoctrinalresearch study is one that has been conducted on a legal theory by means of applying reasoning capability to the analysis of current statutory provisions and cases. Doctrinal refers to a fundamental tenet or principal . This implies that the legal universe would be governed by legal tenents found in legal philosophy. In order to evaluate them and get to a reliable conclusion, it follows that doctrinal legal study would entail delving deeper into the legal principals and notions from a variety of sources , including cases, precedents, statutes. Most often the starting point in any research is doctrinal that is library based and then we move forward to other methodologies.

## INTRODUCTION

The concept of Data Protection<sup>1</sup> is not a new concept . Government of India recently envisaged

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<sup>1</sup><https://indianexpress.com/article/technology/tech-news-technology/dominos-data-breach-name-address-other-details-of-over-18-crore-orders-leaked-7328416/lite/>

the idea of Digital India, but it is a big challenge to protect personal data of people in such a large populated country. The judiciary has recognized the Right to Privacy as an instinctive right implicit in Article 21 of the Indian Constitution. Auto Shankar Case and Puttaswamy are one of the cases in which Hon'ble Supreme Court has recognized the Right To Privacy as a Fundamental right. Right to Privacy is co-extensively related with Data Protection. In present time we are dependent on online apps from buying clothes to ordering food, groceries and medicines. The life has become easier due to the introduction of technology but it can become a dangerous as the number of people are victims of a breach of data protection. A renowned pizza company named Domino's is the victim of a massive data breach that exposed order details of 18 crore people, which is a huge number. The strange thing is that big companies like Facebook, Air India, Unacademy could not handle people's data safely. The largest data breach according to World Economic Forum's Global Risk Report is Aadhaar leak case<sup>2</sup>, which exposed the data of nearly 1.1 billion Indian People.

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<sup>2</sup><https://indianexpress.com/article/technology/tech-news-technology/indias-data-breach-cases-fall-by-75-in-2023-surfshark-8616094/tech>

## RANK OF COUNTRIES ON DATA

India has witnessed significant shifts in ranking in respect of data breach over the past few years. According to a report by Surfshark<sup>2</sup> in 2022, India ranked as 7<sup>th</sup> on the list of countries with most breached data. However, in 2023, India reached to 5<sup>th</sup> position, with 5.3 million leaked accounts.

In Q1 2023, Europe was the sole region which witnessed significant quarter over quarter growth, with an increasing number of breaches from 9.9 million to 17.5 million. Asia is the second most affected region, which results in 10.6 million breaches.

Globally<sup>3</sup> around 299.8 million accounts breached in 2023. The United States ranked 1<sup>st</sup> with almost 100 million breach accounts, marking rapid growth from the previous year. Russia followed by second place, while France, Spain, and India secured their position at 5<sup>th</sup>.

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<sup>3</sup><https://blog.ipleaders.in/data-protection-laws>

<sup>4</sup><https://www.thehindu.com/sci-tech/technology/how-the-personal-data-of-815-million-indians-got-breached-explained/article67505760.ece>

## LEGISLATIONS GOVERNING PRIVACY AND DATA PROTECTION

Privacy and Data protection are not defined anywhere but the scope of these terms have been covered under many Indian legislations. The laws relating to the privacy and data protection are as follows;

### **1. Constitution Of India;**

According to Article 21 of Indian Constitution, ‘‘ No person shall be deprived of his life or personal liberty except according to procedure established by law. ‘‘The Hon’ble Supreme Court of India recognized right to privacy as fundamental right in the year 2017 in Puttoswamy case.

In the case of M.P. Sharma v. Satish Chandra, SC observed that though there are certain exceptions to right to privacy but conducting search and seizure by police at midnight is a violation of right to privacy enshrined under Article 21 of the constitution.

### **Kharak**

**Singh v. State of U.P.**<sup>5</sup>, it was concluded by SC that expression life is not only restricted to bodily restraint but something more than mere animal existence. In this case the petitioner named Kharak Singh was framed with the offence of dacoity, but was acquitted as there was not sufficient evidence against him. U. P. Police started conducting police surveillance against the accused in order to keep an eye upon him. SC held that domiciliary visits of police officers upon the house of petitioner were an invasion on his personal liberty.

From time to time SC emphasized that right to live is not confined to physical existence but it includes within its ambit the right to live with human dignity and it covers all the aspects data protection is one of them. As right to privacy is a fundamental right, the victim of breach of privacy or data privacy has the option to move to SC or High court under article 32 and 226 respectively.

**Information Technology Act, 2000**<sup>6</sup>; This act specifically covers cybercrimes, frauds. Its provisions cover the cyber crime which is linked with privacy and data protection. The most important provisions relating to cyber frauds are as follows;

a] **Section 66**; This section talks about hacking, which is unauthorized access to someone’s

Computer or any electronic device without this or her consent to cause injury<sup>4</sup> to that person,  
LEGISLATIONSGOVERNINGPRIVACYANDDATAPROTECTIO

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<sup>5</sup> <https://indianexpress.com/article/technology/tech-news-technology/indias-data-breach-cases-fall-by-75-in-2023-surfshark-8616094/>

<sup>6</sup> <https://www.drishtiiias.com/daily-updates/daily-news-analysis/massive-aadhaar-data-breach>

Fine which may extend to 5 lacks or with both.  
which shall be punishable with imprisonment for a term which may extend to 3 years or with

**Section 66E**; This section provides that any person who intentionally captures the pictures of a person and transmits or publishes the image of such person without his consent is an offence under this provision, for which the imprisonment provided is 3 years or fine up to rs. 2 lacks or both.

**Section 67A**; It relates to the offence of publishing or transmitting any material consisting of sexuality through electronic means, which is objectionable and shall be punishable with an imprisonment which may extend to five years and a fine which may extend to rupees ten lacks, and upon the second conviction, the imprisonment may extend to seven years and a fine which may extend to rupees ten lacks.

**Copyright Act 1857**; This act was enacted to protect the intellectual rights of a true owner. The act mainly preserves the literary, dramatic, musical, and artistic works of the author during his life time and sixty years after his death. If any person copies the work of the author for some commercial purposes without his consent is liable to be prosecuted under this act.

### **K.S. Puttoswamy v/s Union Of India<sup>7</sup>**

This case is popularly known as Aadhaar case, a nine constitutional judge bench of SC of India in the year 2017 declared right to privacy a fundamental right under article 21 which right to life and personal liberty. Right to privacy includes protection of data, the leakage of someone's data or accessing any electronic items without his permission is violation of right to privacy.

**Justice Sri Krishna Committee<sup>8</sup>**; The cases are rising day by day, so the government of India through its Ministry of Electronics and Information Technology, appointed a committee of ten members under the leadership of SC retired judge, justice B.R. Krishna to provide a detailed report on the passing of new data privacy laws to curb cyber crimes. Digital Personal Data Protection Act, 2023 is the result of this committee.<sup>5</sup>

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<sup>7</sup><https://blog.iplayers.in/data-protection-laws>

which shall be punishable with imprisonment for a term which may extend to 3 years or with

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<sup>8</sup> <https://www.livemint.com/news/india/aadhar-data-leak-massive-data-breach-exposes-815-million-indians-personal-information-on-dark-web-details-here-11698712793223.html>

1. **Cyber Attack on AIIMS<sup>9</sup>**; The government owned hospital named AIIMS experienced cyber attack resulting in the encryption of around 1.3 terabytes of data across five servers. This was not the first time when AIIMS became the victim of cyber attack, only after six months second cyber attack on AIIMS took place. Cyber attack caused chaos, delay in services at AIIMS, adversely affected the patient care services at the hospital. With the server being down, the OPD and sample collection were handled manually but the sample system for those who do not have a Unique Health Identification was affected.
2. **Air India Data Breach<sup>10</sup>**; In February 2021, Air India data breach occurred which resulted in disclosing 4.5 million Air India customer's personal information. The breached comprised of personal data which includes name, date of birth, contact number, passport information.
3. **Aadhaar Data Leak case**; A U.S. based cyber security firm has claimed that personal information of approximately 18.5 cr. People leaked including aadhaar number, address and passport details, were being sold on dark web. This was the massive data breach as 99 percent Indians aged 18 and above have registered for Aadhaar card. Eventually UIDAI assures that the aadhaar data including biometric information is fully safe.
4. **Rail Yatri Data Breach**; Indian railways became the topic of news after an incident of data breach at Rail yatri, the e-booking services website. More than 30 million users were affected which booked online tickets, their data was sold in dark web. Rail yatri had previously faced similar breach in 2020 disturbing 700,000 users.
5. **Bharat Pay Hacked<sup>11</sup>**; In present time online money transaction apps have a necessity, there are number of digital financial services apps such as google pay, paytm, Bharat pay is one of them which experienced massive data breach resulting in disclosure of around 37,000 users. The leaked information includes user names, password, UPI ID, mobile numbers and email ids.

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<sup>9</sup> <https://blog.ipleaders.in/data-protection-laws-in-india-2/>

<sup>10</sup> <https://www.livemint.com/news/india/aadhaar-data-leak-massive-data-breach-exposes-815-million-indians-personal-information-on-dark-web-details-here-11698712793223.html>

## MAJORCYBERSECURITYDATABREACHESI

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<sup>11</sup> <https://thecyberexpress.com/top-10-data-breaches-in-india-cybercrime/>

## CONCLUSION

In present scenario the people are compelled to provide information in every sphere from taking admission in an educational institutions to ordering items from digital apps, in such a situation there is always threat to personal details of the people .Privacy<sup>12</sup>is as important as the oxygen for the human being. Data protection has become a big issue in every country and with the passing of time this can become worse. It has become normal to see cyber fraud cases in news everyday. With the increasing number of sharing information on online platforms , it is essential to protect the data from being misused. It is the duty of government to implement Strict laws to resolve the issue of cyber data breach<sup>13</sup> and to protect privacy of it's citizens.

## SUGGESTIONS

1. Though there are many legislations covering data protection ,still the government of India failed to secure personal information of the people , the examples of this are AIIMS, Rail yatri, Cowin data breach cases , these are the institutions regulated by government. There is a need to enact new laws to tackle the problems of data breach.
2. The government must take attractive initiatives to aware the people regarding data protection in the form of advertisement on television , internet, picture depiction.
3. Low literacy rate of India is also a reason for the significant data breach incidents. The innocent people click on the unknown links without applying their mind and suffer a lot, so the government is responsible to spread education and awareness relating to such issues in a easier manner .
4. There is need of enhancing the punishment in for imprisonment and heavy amount of fine, even death penalty should be an option in severe cases.<sup>17</sup>

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<sup>12</sup> <https://indianexpress.com/article/technology/tech-news-technology/dominos-data-breach-name-address-other-details-of-over-18-crore-orders-leaked-7328416/lite/>

<sup>13</sup> <https://thecyberexpress.com/top-10-data-breaches-in-india-cybercrime/>

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