

New Privacy Laws in India: Merely on Paper or Reality?

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Introduction

Indian privacy regulations have recently been the subject of debate. The Indian Telegraph Act of 1885, the Information Technology Act of 2000, and the Right to Privacy judgment of 2017 are only a few of the country's privacy laws and regulations in force.



There have been worries that privacy protections in India are insufficient notwithstanding these legislation. The current situation of India's privacy regulations will be examined in this report, and it will be determined whether or not they actually apply in practice.

Privacy Laws in India

The Indian Constitution makes no express reference of the right to privacy. The Supreme Court of India has recognised the right to privacy as a basic right under Article 21 of the Constitution. In its historic 2017 ruling in *Judge K. S. Puttaswamy (Retd.) and Anr. v. Union of India and Ors.*, the Supreme Court of India declared privacy to be a fundamental right. The court acknowledged that each person's sense of self-worth and autonomy, as well as being an essential element of personal freedom, depend on their ability to exercise their right to privacy.

The Information Technology Act of 2000 is a crucial piece of legislation that controls privacy in India (IT Act). Measures addressed by the IT Act address issues like hacking, unauthorized access to computers, and the security of personal data. The Act also permits the appointment of an adjudicating officer and an appeal tribunal to handle complaints related to the Act.



The Department of Personnel and Training published the Public Interest Disclosure and Protection of Informers (PIDPI) Resolution in 2011, which provides protection to those who come forward with information about corruption and wrongdoing. The PIDPI Resolution's provisions also protect the names of whistleblowers.

Another law that affects privacy in India is the Right to Information Act, 2005 (RTI Act). The right to access information kept by public authorities is provided by the RTI Act. The Act does, however, also include measures that protect individuals' right to privacy, such as Section 8(1)(j), which prohibits the revelation of any information that would unreasonably invade that right.

Privacy Concerns in India

There are worries that privacy is not sufficiently protected in India despite the presence of privacy laws. The absence of a comprehensive data protection law is one of the major issues. There is no particular law dealing with the protection of personal data in India. There are some data security provisions in the IT Act, but they are not all-inclusive.

Lack of enforcement of privacy rules in India is a further worry. When people or organisations violate privacy laws, the government and law enforcement authorities don't always respond. For instance, there have been numerous data breaches and disclosures in India, but there haven't been many legal actions taken.



Concerning is also how little the general public knows about privacy. Many Indians are ignorant of their rights and lack the knowledge necessary to safeguard their privacy. Because of this ignorance, it is simpler for people and businesses to break the law regarding privacy.

There are also worries that the government is violating private rights for national security purposes. For instance, the IT Act and the Indian Telegraph Act, 1885 are two laws and policies that the government has implemented that enable it to intercept electronic communications. These regulations have come under fire for being unspecific and lacking sufficient safeguards against abuse.

Case Studies

The state of India's privacy legislation is demonstrated by a number of case studies. The Aadhaar case, which questioned the constitutionality of the Aadhaar Act, 2016, which required citizens to connect their biometric data to their identities, is one such instance. The Indian Supreme Court upheld the Act's constitutionality while also stating that the right to privacy is a basic one. The court placed a number of limitations on the use of Aadhaar, including limiting the use of biometric information and making it optional for private businesses.

The Pegasus spyware scandal is another instance that illustrates how India's privacy regulations stand today. In July 2021, it came to light that the Pegasus spyware, which is used for surveillance, had targeted a number of Indian journalists, activists, and lawmakers. Although it is obvious that using spyware to target specific people is against the law, the government has not done much to look into the matter and bring charges against those responsible.

In the Cambridge Analytica case, it is also clear that India's privacy rules are not being enforced. The unauthorized access to the confidential information of millions of Facebook users in India by Cambridge Analytica was made public in 2018. Despite the obvious violation of privacy rules, neither the business nor its affiliates in India have faced any serious repercussions.

Conclusion

In conclusion, privacy rules in India are not just words on a page; they also do not totally exist. The country has a number of privacy rules and regulations, but there are questions regarding how well they are applied and enforced. Significant issues include the absence of a thorough data protection statute, a general lack of privacy awareness, and government violations of privacy

rights. The difficulties in protecting privacy in India are demonstrated by the case studies of Aadhaar, Pegasus malware, and Cambridge Analytica. To guarantee that privacy laws are effectively enforced and that people's privacy is respected, the government and law enforcement organisations must take action. Furthermore, there is a need for the public to be made more aware of their privacy rights and how to safeguard them. To fill up the privacy legislation gaps and guarantee that people's personal data is secured, a comprehensive data protection law is also required.

India has made some strides in closing the gaps in its privacy laws. In December 2019, the Personal Data Protection Bill was introduced in the Indian Parliament. The Bill is currently being reviewed and, if passed, will provide total data protection in India. The Bill proposes setting up a Data Protection Authority to control the collection, use, and storage of personal data. The Bill also covers a number of data protection principles, such as purpose restriction, data reduction, and accountability.

However, there are issues with the Bill's provisions, including the government's broad exemption powers and the Data Protection Authority's unclear position. In order to make sure that the Bill effectively addresses the privacy concerns of all stakeholders, there is also a need for public input and stakeholder involvement.

In conclusion, a number of reasons, such as the absence of thorough data protection legislation and lax enforcement of current rules, contribute to the fact that many Indians do not actually benefit from privacy regulations. Despite some attempts to close these loopholes, there is still much to be done to guarantee that people's privacy is respected. To enforce current laws and hold offenders accountable, the government and law enforcement organisations must take decisive action. To ensure that people are empowered to safeguard their privacy, it is also essential to raise public awareness of and educate the public on privacy rights and protections. The Personal Data Protection Bill is a positive move, but more has to be done to make sure it fully meets the privacy concerns of all parties.

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