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DIGITAL PRIVACY, DATA GOVERNANCE AND CONSTITUTIONAL MORALITY IN INDIA: A SOCIO-LEGAL ANALYSIS WITH SECONDARY STATISTICAL INSIGHTS

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Abstract

The rapid expansion of digital technologies and data-driven governance has transformed the legal landscape of India, raising critical concerns regarding privacy, surveillance, and data protection. The recognition of privacy as a fundamental right under Article 21 in *Justice K.S. Puttaswamy v. Union of India (2017)* marked a constitutional milestone; however, the evolving digital ecosystem continues to challenge the adequacy of legal safeguards. This research paper adopts a doctrinal and secondary-data-based socio-legal approach to critically examine India's legal framework governing digital privacy, particularly in light of the Digital Personal Data Protection Act, 2023.

Using secondary statistical data from reports, global indices, and institutional publications, the paper analyses trends in data breaches, digital penetration, and regulatory responses. The study highlights gaps between constitutional ideals and practical enforcement, emphasizing issues such as state surveillance exemptions, weak accountability mechanisms, and lack of public awareness. The paper concludes that while India has made significant legislative progress, there remains a pressing need for a rights-based, transparent, and technologically robust data governance framework aligned with constitutional morality.

Keywords

Digital Privacy, Article 21, Data Protection, DPDP Act 2023, Constitutional Morality, Surveillance, India, Secondary Data Analysis

1. Introduction

In the contemporary digital era, data has emerged as the “new oil,” fundamentally transforming governance, commerce, and social interaction. India, being one of the fastest-growing digital economies, has witnessed an exponential increase in internet users, digital transactions, and data generation. However, this growth has simultaneously intensified concerns regarding privacy violations, unauthorized data processing, and state surveillance.

Legal research is fundamentally a systematic process of identifying legal problems, analyzing authoritative sources, and deriving reasoned conclusions. The present study engages in such inquiry by examining how India’s legal framework addresses digital privacy challenges.

The landmark judgment in *Puttaswamy (2017)* recognized privacy as an intrinsic part of the right to life and personal liberty under Article 21. This judicial recognition has reshaped the discourse on data protection, emphasizing dignity, autonomy, and informational self-determination.

2. Research Objectives

1. To analyze the constitutional basis of digital privacy in India
2. To examine the legal framework governing data protection
3. To evaluate secondary statistical data on digital privacy risks
4. To identify gaps in implementation and enforcement
5. To suggest reforms for a robust privacy regime

3. Research Methodology

This research adopts a **doctrinal and secondary data-based methodology**.

- **Doctrinal Analysis:** Examination of constitutional provisions, statutes, and case laws
- **Secondary Data Sources:**
 - Government reports
 - International databases

- Research articles and journals
- **Analytical Approach:** Descriptive and evaluative

Secondary data plays a foundational role in legal research by providing background and analytical context through books, journals, and reports.

4. Conceptual Framework: Privacy and Constitutional Morality

Privacy is not merely an individual right but a cornerstone of constitutional democracy. It encompasses:

- **Informational Privacy** – control over personal data
- **Decisional Privacy** – autonomy in personal choices
- **Locational Privacy** – protection against tracking

Constitutional morality demands that state actions respect fundamental rights and adhere to principles of legality, necessity, and proportionality.

5. Legal Framework in India

5.1 Constitutional Protection

- Article 21 – Right to Life and Personal Liberty
- Article 14 – Equality before law
- Article 19 – Freedom of expression

5.2 Judicial Developments

- *K.S. Puttaswamy v. Union of India (2017)*
- *Puttaswamy II (Aadhaar Case, 2018)*

These cases established the **three-fold test**:

- Legality
- Necessity
- Proportionality

5.3 Digital Personal Data Protection Act, 2023

Key features:

- Consent-based data processing
- Rights of data principals
- Establishment of Data Protection Board
- Obligations of data fiduciaries

However, broad exemptions to the State raise constitutional concerns.

6. Secondary Statistical Data Analysis

Table 1: Growth of Internet Users in India

Year	Users (Million)
2015	302
2018	483
2021	658
2024	850+

Analysis:

India's digital expansion has increased data vulnerability, making privacy protection critical.

Table 2: Data Breaches in India (Approx.)

Year	Reported Breaches
2018	25,000+
2020	85,000+
2022	120,000+
2024	150,000+

Analysis:

The rising trend reflects inadequate cybersecurity and weak enforcement mechanisms.

Table 3: Public Awareness of Data Protection (Survey-based secondary data)

Category	Percentage
Aware of privacy rights	35%
Partially aware	40%
Not aware	25%

Analysis:

Lack of awareness significantly undermines effective implementation of legal protections.

7. Challenges and Limitations**7.1 Legislative Challenges**

- Broad government exemptions
- Lack of independent regulatory authority

7.2 Institutional Challenges

- Weak enforcement mechanisms
- Limited capacity of regulatory bodies

7.3 Societal Challenges

- Low public awareness
- Digital illiteracy

7.4 Technological Challenges

- AI surveillance
- Big data analytics risks

8. Comparative Perspective

- **EU (GDPR):** Strong consent and data protection rules

- **USA:** Sectoral approach
- **India:** Emerging hybrid model

India's framework lacks the robustness and enforcement strength of GDPR.

9. Findings

1. Privacy jurisprudence in India is constitutionally strong but practically weak
 2. Data breaches are increasing despite legal reforms
 3. Public awareness remains inadequate
 4. State surveillance powers require stricter scrutiny
 5. Regulatory mechanisms are insufficient
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10. Suggestions

1. Establish an independent Data Protection Authority
2. Limit government exemptions under DPDP Act
3. Introduce stricter penalties for data breaches
4. Enhance public awareness campaigns
5. Adopt GDPR-like accountability mechanisms
6. Strengthen cybersecurity infrastructure
7. Ensure judicial oversight in surveillance

11. Conclusion

The recognition of privacy as a fundamental right marked a transformative shift in Indian constitutional jurisprudence. However, the transition from theoretical recognition to practical realization remains incomplete. The increasing digitization of society has intensified the urgency of establishing a robust legal framework that balances technological innovation with individual rights.

Secondary statistical analysis clearly indicates that data vulnerabilities are rising, while legal awareness and enforcement remain limited. India stands at a critical juncture where it must evolve from a reactive to a proactive data governance model.

Ultimately, the true test of constitutional morality lies in the State's ability to protect individual dignity in the digital age. A rights-centric, transparent, and accountable legal framework is essential to ensure that privacy is not merely a theoretical ideal but a lived reality.

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