



A Comparative Analysis Of Right To Privacy: India, The European Union And The US

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Published on: 18th August 2025

Abstract

In the absence of privacy, no dignity, individuality and personal autonomy are left in the life of a person. One can't take a personal decision like marriage, a relationship, or a personal belief freely without privacy as without privacy, your decision will be controlled through surveillance or interference. The Indian Constitution provides the Right to Privacy under the Right to Life (Article 21) which shows that life has no meaning without privacy. While the United States and European Union have established legal frameworks for addressing the issues related to privacy, in India the Right to Privacy has been given recognition in the Constitution recently with the Puttaswamy Judgment. India has declared privacy as a fundamental right; however, India still lacks a comprehensive statutory regime, practical tools and safeguards to protect privacy as a right if compared to the European Union's GDPR or the US sectoral privacy model.

This paper focuses on the Constitutional recognition and evolution of the right to privacy in India, the European Union and the US. The paper also focuses on the scope and limitations of privacy protection under the three jurisdictions. The aim of the study is to compare the approaches to data protection and surveillance in the digital age. The paper also focuses on the role of the judiciary in interpreting and expanding the right to privacy. The paper addresses the similarities and differences in the philosophical and legal foundations of privacy. The paper also addresses recommendations for strengthening privacy rights in India based on comparative insights.

Keywords: *Right to Privacy, The Indian Constitution, Right to Life, Puttaswamy Judgment, Fundamental Right, GDPR, Sectoral Privacy Model, Constitutional Recognition.*

INTRODUCTION

The Indian Constitution provides the Right to Privacy under the Right to life because privacy has an important meaning in life, it is an essential part of life. The value of Right to Privacy can be best understood by this fact that it is included in the Right to Life under Article 21 of the constitution. It is the foundation of democracy, not a personal concern of a person. In India the Right to Privacy is a fundamental right but it was given recognition with the Puttaswamy judgment. In the current scenario, Right to Privacy is very important as personal data is collected almost everywhere in daily lives- CCTV's, Aadhar, Digilocker, Shopping apps, AI surveillance. Social media apps including Whatsapp, Instagram, Google users data is tracked. Recent data breaches and cybercrimes are enough to understand how much data protection is needed right now. Even though in the year 2023 the first comprehensive data protection law "Digital Personal Data Protection Act, 2023" was enacted, it has broad exemptions for govt. in the name of national security, sovereignty etc. Also, its applicability is only on digital data not on the non-digital data, and it has weak enforcement.

The significance of this study lies in exploring the constitutional recognition and evolution of the right to privacy in India, the EU and the US. By applying the comparative approach this paper aims to analyze the scope and limitations of privacy protection under three jurisdictions, to identify their similarities and differences and to analyze the role of judiciary in interpreting and expanding the right to privacy. The comparative analysis will help to find out the weaknesses and best practices which India can adopt to improve the status of Right to privacy in India.

RESEARCH PROBLEM

Although the Right to Privacy in India is recognized in the Constitution as a fundamental right through Puttaswamy judgment, still it has weak implementation as well as statutory safeguards. Unlike the European Union's GDPR Model and the sectoral approach of the US, India still lacks a proper framework even though the first comprehensive data protection law "Digital Personal Data Protection Act, 2023" was enacted but it also has limitations and gaps.

Therefore, the research problem of the comparative study lies in examining the evolution, similarities and differences in the foundations of right to privacy in these jurisdictions and the

role of judiciary in expanding and interpreting privacy as a right, to find out what India can learn from them to make its privacy regime stronger.

RESEARCH QUESTIONS

1. How has the right to privacy evolved and how it has been recognized constitutionally in India, the EU and the US, and what is the scope of its protection under three jurisdictions?
2. What is the difference in the approaches to data protection and surveillance in the digital age under three jurisdictions?
3. What role has the judiciary played in interpreting and expanding the right to privacy?
4. What are the similarities and differences in the philosophical and legal foundations of privacy in the three jurisdictions?
5. What best practices can India adopt from the models of the EU and US?

RESEARCH OBJECTIVES

1. To trace the constitutional recognition, evolution and scope of the right to privacy in India, the EU and the US.
2. To compare the approaches towards data protection and surveillance in the digital age.
3. To analyze the role of the judiciary in interpreting and expanding the right to privacy.
4. To identify similarities and differences in the philosophical and legal foundations of privacy.
5. To suggest recommendations for strengthening privacy rights in India based on comparative insights.

RESEARCH METHODOLOGY

The study uses a comparative and doctrinal method of research which will mostly be analytical in nature, relying on judicial decisions, statutes and secondary literature.

LITERATURE REVIEW

AUTHOR(S)	YEAR	KEY FOCUS	FINDINGS
Rachna Yadav	2023	Analyses EU's GDPR , US Model, and India's DPDP Act comparatively	India's privacy framework is in the developing stage. Privacy became fundamental right after Puttaswamy

			judgment in 2017 and DPDP Act was introduced in 2023. The US has a weak privacy concept. The US and India's model is fragmented and Europe's model is citizen centric ¹
Saurabh Raj, Prateek Sikchi, Siddharth Ranka	2023	Examines India and USA's privacy jurisprudence	India and the USA both restrict privacy for national security. The US has no comprehensive law on privacy ²
Stency Mariya Mark and Aaratrika Pandey	2024	Analyses privacy in India, US & South Africa	States that South Africa is the strongest, US is the weakest and India is the intermediate in the privacy regime ³
Suveer Dubey	2024	Examines Data Privacy Laws across India, EU and USA	States that DPDP Bill was mainly inspired by GDPR ⁴

RESEARCH GAP

Even though there is a lot of comparative research done in respect of privacy laws, there are few comparing the three jurisdictions of the European Union, India and the USA. In the existing research it is mainly ignored that India is still in its evolving phase in the privacy regime. Furthermore, there is less focused research on the various aspects of how the right to privacy was evolved with different

¹ Rachna Yadav, "A Comparative Study of Digital Privacy in Europe, America and India. Educational Administration : Theory and Practice" 29(4), KUEY JOURNAL 5262-5273 (2023)

² Saurabh Raj, Prateek Sikchi, Siddharth Ranka, "A Comparative Examination of Privacy Jurisprudence: India and the USA" VOL 11, Russian Law Journal, 49-62 (2023)

³ Stency Mariya Mark and Aaratrika Pandey " Shielding Privacy in the Surveillance Era: A Comparative Study of India, USA and South Africa" Vol.16 No.2, Law, State and Telecommunications Review, 215-235 (2024)

⁴ Suveer Dubey, "A Comparative Analysis of Data Privacy Laws across India, EU and USA" Vol 10, Issue 1, Journal of Legal Studies And Research" 52-64 (2024)

philosophical and legal foundations in these three jurisdictions, the scope and limitations of privacy protections under these three jurisdictions, how their judiciary interpreted and expanded the right to privacy. By this research the purpose is filling these gaps and suggesting the recommendations for strengthening privacy rights in India based on comparative insights.

TENTATIVE CHAPTERIZATION

Chapter 1: Evolution and Constitutional Recognition of Right to Privacy

This chapter deals with the evolution and constitutional recognition of the right to privacy in India, US and EU. The scope and limitations of privacy in the three jurisdictions.

Chapter 2: Approaches towards data protection and surveillance in the Digital Age

This chapter deals with the approaches taken by India, EU and US for data protection.

Chapter 3: Judiciary's Role in Right to Privacy

This chapter states how the judiciary interpreted and expanded the right to privacy in India, US and EU.

Chapter 4: Similarities and Differences in the Philosophical and Legal Foundations of Privacy

This chapter states what are the similarities and differences in the philosophical and legal foundations of privacy in India, US and EU.

Chapter 5: Findings, Suggestions and Conclusion

This chapter states what are the findings of this research, suggestions and conclusion of the research.

CHAPTER 1: EVOLUTION AND CONSTITUTIONAL RECOGNITION OF RIGHT TO PRIVACY

Life has no meaning without privacy. In the absence of privacy one can't take any personal decision of marriage, religion or education freely. The first official step for the recognition of right to privacy was under the Universal Declaration Of Human Rights (UDHR) in 1948 though the UDHR is not binding in nature; it sets the standards for the basic human rights. Under Article 12 of the UDHR it is stated that the right to privacy should not be interfered with arbitrarily.

EVOLUTION AND CONSTITUTIONAL RECOGNITION IN INDIA

Tracing back the history of India the right to privacy was not considered as a fundamental right earlier. The identity of right to privacy as a fundamental right is a result of the activist approach by the Indian

judiciary when in the puttaswamy judgment⁵ The court declared Right to privacy as a part of the Right to life under Article 21 of the Indian Constitution. As prior to that judgment, the court was of the view that the right to privacy is not a fundamental right. The evolution of Right to privacy and its constitutional recognition can be understood by the following cases:

1. M.P. Sharma and Others v. Satish Chandra, DM and Others⁶

In this case, the SC was of the view that search and seizure can't be challenged on privacy basis as the right to privacy is not a fundamental right.

2. Kharak Singh v. State of U.P and Others⁷

In this case the court was of the view that the right to privacy is not a fundamental right under the constitution so, just following someone or keeping an eye etc. is not a violation of personal liberty unless there is physical restraint or movement restriction.

3. People's Union of Civil Liberties (PUCL) AND Anr v. UOI and Anr⁸

In this case for the first time privacy was given consideration. The court held that telephone tapping is a substantial violation of privacy and only home secretaries of state and centre govt can issue telephone tapping orders pursuant to Sec 5(2) of the Indian Telegraph Act, 1885.

4. Justice K.S. Puttaswamy (Retd.) & Anr v. UOI and Others⁹

In this case, a retired HC Judge K.S Puttaswamy filed a PIL during the Aadhaar scheme stating that Biometric collection and linking for aadhar is violating the right to privacy. It was argued that the Indian Constitution doesn't recognize privacy as a fundamental right relying on M.P Sharma¹⁰ and Kharak Singh judgment¹¹. Later when the matter was referred to the 9 judge bench the SC declared privacy as an intrinsic part of Article 21 Right to life and personal liberty. The court broadly defined privacy in 3 categories: a) Bodily privacy b) Informational privacy c) Decisional privacy.

5. Justice K.S. Puttaswamy (Retd) v. UOI¹²

In this case, the issue was that the Aadhar scheme violates the Right to privacy. SC upholds aadhar as a welfare tool, but stopped its misuse. It was held that aadhar was valid for welfare subsidies PAN/ITR but not valid for bank accounts, mobile SIM's, and private usage.

⁵ Justice K.S. Puttaswamy (Retd.) and Anr v. UOI and Others 2017 10 SCC 1

⁶ M.P. Sharma v. Satish Chandra AIR 1954 SC 300.

⁷ Kharak Singh v. State of U.P. AIR 1963 SC 1295.

⁸ People's Union of Civil Liberties (PUCL) v. Union of India AIR 1997 SC 568

⁹ Justice K.S. Puttaswamy (Retd.) v. Union of India (2017) 10 SCC 1.

¹⁰ M.P. Sharma and Others v. Satish Chandra, DM and Others AIR 1954 SC 300

¹¹ Kharak Singh v. State of U.P and Others AIR 1963 SC129.

¹² Justice K.S. Puttaswamy (Retd) v. UOI 2018 1 SCC 809.

Thus, because of the puttaswamy judgment the right to privacy was recognized as a fundamental right. This was the base of the later judgments related to the right to privacy and for the Digital Personal Data Protection Data Act, 2023.

SCOPE AND LIMITATION IN INDIA

1. Recognized as a fundamental right under Article 21 of the Constitution.
2. Covers individual autonomy, liberty, dignity and bodily, informational as well as decisional privacy.
3. Recent law enacted in 2023- Digital Personal Data Protection Act, 2023.

But it is not absolute, it has some reasonable restrictions.

EVOLUTION AND CONSTITUTIONAL RECOGNITION IN USA

Same as India there was no express mention of the right to privacy under the US Constitution. The evolution and recognition of the right to privacy in USA can be understood by the following cases:

1. Olmstead v. US¹³

In this case the US Court held that there is no physical intrusion in wiretapping. Fourth Amendment only protects from physical search and seizure, telephone tapping doesn't come under its scope. The dissent of Justice Louis Brandeis in this case that the wiretapping without warrant by the govt. Is a serious invasion to privacy- became the basis of US privacy jurisprudence.

2. Griswold v. Connecticut¹⁴

In this case the SC of US held that the right to privacy is not expressly but impliedly there under the amendments of bill of rights.

3. Katz v. United States¹⁵

In this case the court overruled the earlier Olmstead judgment¹⁶ and said that intangible communications, telephone, electronic data also comes under the scope of the 4th amendment. Justice Harlan's Concurrence- most famous Reasonable Expectation of Privacy Test which required - Person's subjective expectation of privacy and Society's recognition of that expectation as objectively reasonable.

4. Stanley v. Georgia¹⁷

¹³ Olmstead v. US 1928 277 US 438.

¹⁴ Griswold v. Connecticut 381 US 479 (1965).

¹⁵ Katz v. United States 389 US 347 (1967).

¹⁶ Olmstead v. US 1928 277 US 438.

¹⁷ Stanley v. Georgia 394 US 557 (1969).

In this case the court stated that inside home private thoughts, reading, viewing should be free from the state interference. The state can impose public morality but can't enforce private morality.

5. Roe v. Wade¹⁸

In this case abortion was included in the scope of privacy under the 14th amendment and the trimester system was made.

6. Planned Parenthood v. Casey¹⁹

In this case the court reaffirmed that women have a constitutional right to choose abortion before fetal viability. But the trimester framework was rejected.

Recently in 2022 with the Dobbs Judgment²⁰ The court said that the Constitution, especially the 14th amendment Due Process abortion doesn't exist as a fundamental right. In the earlier judgments privacy was extended to abortion wrongfully.

Thus, the US through the judgments state that even though privacy is not an expressed right Griswold v. Connecticut the Constitution but it is implied.

SCOPE AND LIMITATION IN USA

1. Not comprehensive.
2. Privacy protection by sectoral laws like HIPPA, COPPA.

More restrictions like national security, it has fragmented laws for protection.

EVOLUTION AND CONSTITUTIONAL RECOGNITION IN USA

The European Convention of Human Rights came into force in 1953 and in its Article 8 it includes guarantee to the right to private life. GDPR-General Data Protection Regulation came into effect on MAY 25, 2018 and became the main legal instrument for the context of privacy in the European Union. So, the European Union considered privacy as a basic human right and there the right was not recognized through judgments. In the light of UDHR the European Union recognized privacy as a fundamental right.

SCOPE AND LIMITATION IN EU

1. Fundamental right under the EU CHARTER of fundamental rights.
2. GDPR, strongest on global level and very broad in nature, imposes heavy fines in case of non-compliance.

¹⁸ Roe v. Wade 410 US 113 (1973).

¹⁹ Planned Parenthood v. Casey 505 US 833 (1992).

²⁰ Dobbs v. Jackson Women Health Organization 2022 597 U.S. 215.

It has restrictions but with strict proportionality tests.

CHAPTER 2: APPROACHES TOWARDS DATA PROTECTION AND SURVEILLANCE IN THE DIGITAL AGE

For the protection of data of their citizens the three jurisdictions have taken different approaches: India's recent act, US's Sectoral approach and EU's Centralized model- GDPR.

1. India's DPDP ACT, 2023

In 2023 Indian law DPDP Act was passed to protect individual privacy. The act states that the personal data can be protected only if the data principal has consented or if it is required by law. Notice is required before asking for the consent so that the data principal get an idea of what is collected and for what purpose etc. Consent must be withdrawable easily, free, specific and should not be unambiguous. It also provides some legitimate uses where consent is not required. It provides for duties of data fiduciary. It provides parent and guardian consent for the processing of children's data. It has a provision of significant data fiduciary. It provides for the rights of data principal- Right to Information, correction and erasure, grievance redressal, right to nominate. The act also provides for some duties of data principals like not providing wrong info or not to file a false grievance. It provides for exemptions like Legal/Judicial needs, Sovereignty, Security etc. It also provides for a legal body to be appointed which is to be called as Data Protection Board of India to ensure compliance with the act consisting of a chairperson and members and minimum one member to be a law expert. It also provides for penalties for non- compliance. It has an overriding effect.

2. US' Sectoral Approach

The US doesn't have one national law in the context of privacy; it is fragmented. The US has different federal and state laws for specific situations. It has federal laws like- Privacy Act, 1974 which is only applicable on US govt. agencies, Health Insurance Portability and Accountability Act, 1996- for the protection of private data of patients, Children's Online Privacy Protection Act 2000- It protects the privacy of children below thirteen, Gramm Leach Bliley Act 1999- deals with how financial institutions handle the info of their customers , Fair Credit Reporting Act, 1970- deals with the privacy of information of Credit reporting agencies.

State laws like-California Consumer Privacy Act, 2018- It is the privacy law of the state of US California. It is for the protection of data of consumers. It provides various rights- Right to access, Right to delete, Right to opt out. Its purpose was to make companies transparent. Many states of the US started making their privacy laws after CCPA, 2018. It provides for class action litigation if there

is a single reason for the affected interests of no. of people. Customers can file a case if there is mishandling of their data.

3. European Union's GDPR

It came into effect on 25 May 2018. It governs the handling and transfer of private data within the EU. It has a broad reach. According to it, any info. pertaining to a live identifiable person is personal data. It not only applies to companies within the EU but also outside the EU if they are handling the data of their citizens. Big companies have to appoint a Data Protection Officer in compliance with GDPR but it is not compulsory for small companies. It provides for imposing fines in case of non-compliance of 20 million euros or 4% annual worldwide sales whichever is greater.

CHAPTER 3: JUDICIARY'S ROLE IN RIGHT TO PRIVACY

In the context of right to privacy the judiciary of all the three jurisdictions has played an important role:

Judiciary's Role in India

In India, earlier the judiciary was stuck to the point that the right to privacy is not a fundamental right like in MP Sharma case²¹ and Kharak Singh case²² but later in the Puttaswamy judgement²³ The judiciary took the activist approach and declared the right to privacy as an intrinsic part of the Right to life under Article 21. Later the Aadhar case²⁴-to stop misuse of aadhar and only use for welfare and Navtej singh johar case²⁵-decriminalizing homosexual sex considering it individual privacy also are good examples of how Indian judiciary upholds privacy.

Judiciary's role in US

Earlier the US judiciary was of the view that the telephone tapping doesn't come under the ambit of privacy as in Olmstead judgment²⁶ but it was of view that privacy is not expressly in bill of rights but impliedly as stated in the Griswold case²⁷ But later in Katz judgment²⁸ telephone tapping was held to be covered under privacy. In the Stanley case²⁹ The court stated that inside home one can keep anything against public morality as the state can't enforce private morality. Later by using activist approach US

²¹ M.P. Sharma and Others v. Satish Chandra, DM and Others AIR 1954 SC 300

²² Kharak Singh v. State of U.P and Others AIR 1963 SC1295

²³ Justice K.S. Puttaswamy (Retd.) & Anr v. UOI and Others 2017 10 SCC 1

²⁴ Justice K.S. Puttaswamy (Retd) v. UOI 2018 1 SCC 809

²⁵ Navtej Singh Johar v. Union of India AIR 2018 SC 4321

²⁶ Olmstead v. US, 1928 277 US 438

²⁷ Griswold v. Connecticut 1965 U.S. 479

²⁸ Katz v. United States 1967 389 U.S. 347

²⁹ Stanley v. Georgia 1969 394 U.S. 557

Judiciary also covered abortion under right to privacy but recently in Dobbs Judgment³⁰ abortion is excluded from the right to privacy.

Judiciary's Role in EU

In the European Union the Right to Privacy was not the result of judgments but a fundamental right from the beginning. But through some cases we can understand how the judiciary interpreted the Right to Privacy there:

1. **Lindqvist v. Åklagarkammaren i Jönköping**³¹

In this case the ECJ held that online publication falls under the scope of processing personal data.

2. **Von Hannover v. Germany**³²

ECHR recognized that public figures also have the right to privacy and the freedom of press should be in respect of Article 8.

3. **Google Spain SL & Google Inc. v. APED & Mario Costeja Gonzalez**³³

In this case it was decided that search engines are responsible for removing outdated data. This case led to the origin of the Right to be forgotten in the EU. So, the judiciary played an important role in the three jurisdictions in interpreting and expanding the right to privacy.

CHAPTER 4: SIMILARITIES AND DIFFERENCES IN THE PHILOSOPHICAL AND LEGAL FOUNDATIONS OF PRIVACY

By comparing the three jurisdictions India, US and EU the similarities and differences can be understood between them:

SIMILARITIES AND DIFFERENCES IN THE PHILOSOPHICAL FOUNDATIONS OF PRIVACY

JURISDICTION	INDIA	US	EU
Nature of Privacy Right	Fundamental Right under Right to life Article 21	Consumer Right under the California Consumer Privacy Act, 2018	Basic Human right under the Article 7 & 8 of the ECHR and Fundamental Right under GDPR
Status of Privacy	Evolving status	Narrow in status	Broader in status

³⁰ Dobbs v. Jackson Women Health Organization 2022 597 U.S. 215

³¹ Peck v. United Kingdom App no 44647/98 (ECtHR, 28 January 2003) (2003) 101/01 596.

³² Von Hannover v. Germany App no 59320/00 (ECtHR, 24 June 2004) (2004) 59320/00.

³³ Delfi AS v. Estonia App no 64569/09 (ECtHR, 16 June 2015) (2014) 131/12 317.

Regime			
Introduction of Privacy as a right	Through Judicial activism	Through judicial activism	Through the Article 7 and 8 of ECHR
Scope of Privacy as a right	Bodily, Informational, Decisional privacy	Consumer Protection by creating transparency.	Protects their citizens whether data handling within EU or outside EU

1. In India, US, EU the right to privacy is considered as an important right. In India and EU it has constitutional recognition but in the US it is not expressly in the constitution but present statutory.
2. In India and the EU, it is considered important for dignity, liberty and autonomy of individuals but in the US, it is regarded more as a consumer right. In India it is evolving, in the US it is narrow as a consumer right and in the EU it is broader.
3. In India and US, it was introduced through judicial activism and in EU, it was introduced by Article 7 and 8 ECHR.
4. In India privacy includes- bodily, informational and decisional privacy, In US it is protected in respect of consumers, in EU- protected in respect to all citizens whether their data handling within or outside EU.

SIMILARITIES AND DIFFERENCES IN THE LEGAL FOUNDATIONS OF RIGHT TO PRIVACY

JURISDICTION	INDIA	US	EU
Type of Approach	Centralized Model Approach by DPDP Act 2023	Sectoral Approach by HIPAA, COPPA, CCPA	Centralized Model Approach by GDPR, 2018
Constitutional Legal Framework	Right to Privacy under Right to Life Art 21 Part III	Not expressed in Constitution Derived from Bill of rights, 1789	EU Charter of fundamental rights Art 7 and 8 ECHR Art 8

		Came from judicial interpretations	
Statutory Framework	Legal DPDP Act, 2023 IT Act, 2000	Sector specific laws: HIPAA, COPPA	General Data Protection Act, 2018
Authority	Data Protection Board of India under DPDP Act, 2023	Federal Trade Commission for Consumer Privacy	Data Protection Authority under GDPR, 2018
Effect On Companies	Strict penalties, Implementation needed	Less strict but under govt control	More strict and heavy penalties for non compliance
Awareness of legal framework	Lack of awareness especially illiterate people	Lack of clarity because of sectoral and fragmented system	More awareness among people about the right and its protection

1. The approach of India and EU is centralized and the US is sectoral.
2. In India and the EU the right to privacy is a constitutional right but in the US it is not expressed in the constitution.
3. In all of them, there is a statutory framework of right to privacy.
4. In all of them there is a regulatory authority for privacy protection, DPBI in India, FTC in US, DPA in EU.
5. In India and the EU there are more strict penalties as compared to the US.
6. Lack of awareness of privacy rights in India, lack of clarity due to fragmented systems in the US and more awareness among the public in the EU.

CHAPTER 5 FINDINGS, SUGGESTIONS AND CONCLUSIONS

The findings of the research are:

1. In India and the US the right to privacy was constitutionally recognized through judicial interpretations. But in India it was recognized as an intrinsic part of the right to life under Art. 21

but in US it was not recognized expressly in the Constitution but impliedly and in EU it was recognized constitutionally through Art 7 & 8 of ECHR.

2. India and EU have adopted a centralized model approach through the DPDP Act, 2023 and GDPR, 2018 respectively and the US has adopted a sectoral model approach.
3. The judiciary has played an important role by adopting an activist approach in interpreting and expanding the right to privacy.
4. There are some similarities and some differences in the philosophical and legal foundations of privacy in three jurisdictions.

CONCLUSION

As the research has demonstrated, it is clear that the right to privacy is a part of the right to life. It has evolved and been recognized in the three jurisdictions differently. In the EU it is recognized constitutionally through ECHR, but in India and US through judicial interpretations. In India and EU it is constitutionally recognized but in the US not expressly recognized in the Constitution. In India and the EU a centralized approach is taken but in the US there is a sectoral approach. Here are some of my suggestions what India can adopt from EU and US :

1. Centralized+Sectoral Approach:

As by making of the DPDP Act, 2023 India has adopted the centralized approach of EU like its GDPR but we can also adopt US sectoral approach with little modification by keeping DPDP Act as a grundnorm the states can make some privacy rules specifically in the light of DPDP Act as per the need in the specific state.

2. Global reach like GDPR:

As the GDPR protects its citizens whether data is processed by companies within EU or outside EU as long as it is its citizens' data the same reach should be adopted by India in implementation of DPDP Act 2023.

3. Data Protection Officer:

As appointed under the GDPR, India should also consider appointing of data protection officer by big companies for ensuring compliance with DPDP Act, 2023.

Some other suggestions for India to improve privacy regime:

1. Protection to foreigners if data is processed in India like if the Indian companies are processing their data as they are providing them product or service their privacy should also be protected under the DPDP Act, 2023.
2. Once the provisions of DPDP Act, 2023 officially notified by the govt. The Data Protection

board of India should be established as a stronger authority to ensure privacy protection.

3. Strict tests should be made before granting exemptions for right to privacy.

These are just a few suggestions which can help in improving the privacy regime in India.



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