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Title of Ph.D. A Comparative Analysis of the Legal Framework
Relating to Data Protection in India, U.S.A. & U.K. with
Special Reference to Inter Country Problem of
Outsourcing.

ABSTRACT

The thesis covers international data protection principles of different jurisdictions, national data protection regime and its effectiveness, rationale and emerging issues along with an analysis of relevant legislations/bills/reports from data protection perspective.

The problem of data protection is proliferating with the new technologies like “Big Data”, “Cloud Computing”, “Data Mining” and new methods of inadvertent data transfers into the hands of sane users as well as into the hands of unscrupulous people viz. mobile applications, service/commercial applications, free wi-fi zones, reality video games, internet of things etc. are the reasons of this proliferation. The problem of data protection has been analysed from two different perspectives: one, where data is consciously offshored to other nations for processing, handling purposes. Second, where data transfer is inadvertent contrary to conscious transfer by the use of new technologies. Both the propositions have been analysed with equal vigor and zeal. The international standards on both the trajectories have been compiled and analyzed thoroughly on the parameter of effectiveness. The research in the chapter pertaining to inter-country problem of outsourcing in India navigates the reader through India’s preparedness and its relevant regimen.

The realm of the thesis, as its title suggests, was on the assessment of the legal framework relating to data protection in different jurisdictions and to see India’s preparedness in light of the newer challenges. My attempt has been to successfully cover all the crucial laws and legislations spread across stipulated jurisdictions of the world and to see the domestic preparedness in consonance with the international best standards as outlined in the sweep of the thesis.

The scheme of the study entailed **seven chapters**, all seven chapters have been given equal importance and have been written with the thorough research on the subject.

In view of the thorough comparative examination of different regimes vis-à-vis to India and critical examination of inter country outsourcing in India, the researcher finds that the hypothesis that Indian regimen relating to data protection is inadequate stands disproved and the thesis proffered the following recommendations in the end.

- The policymakers and negotiators must make efforts to project India as adequate nation at the international level. Instead of pressurizing the parliament to enact a law of general applicability with the name data

protection or data security in its title (If mere name satisfies the foreign nations, as it seems that they look for one omnibus legislation, which will not go a long way. Different sectors have different challenges and it is impossible to enact a single law encompassing each and every known sector given the fact that every now and then there are new problems arising in this field) governing oversees data transactions in order to be portrayed as the adequate nation, the attempt must be to project the existing regime as robust and emphasis must be on its enforcement. The theory of incomplete law as discussed in the thesis in chapter pertaining to inter country outsourcing needs to be described to all countries forcing India for consolidated legislation because such a law would never provide a set of governing principles applicable to all sectors.

- Principles of enforcement, notice, and choice related to data transfer and creation of a general right of action for those harmed by privacy violations would go a long way to cure any deficiencies which exists in the regime. Resolute efforts are required to be made on the part of the parliamentarians and policymakers to fill the gap of India's reputation as a nation offering inadequate level of protection. We must not forget that India is still a safe and preferred shore for data outsourcing and will remain so if efforts will be made in this direction.
- Also, emphasis on training of BPO employees or people handling the sensitive information will change the scenario and will bring the cultural and attitudinal difference in relation to issues of data and its security.
- Another measure that can be undertaken to ensure data protection rules is to have institutional mechanism allowing for investigation of complaints and reporting of data breaches. The institutions must keep the data protection norms in coherence with the global scenario and co-ordinate with the institutions functioning around the globe in the field of protection of outsourced data.
- Finally, creating a default opt-out choice mechanism which would ensure that all consumers have the option to refrain from having their personal information sent overseas while not creating the excessive cost burden of an opt-in mechanism.
- "Employee monitoring" is another important step that must be taken at large level and through "data matching" the details of all BPO employees should be kept at one platform to be accessed by all BPO employers before hiring the employee.
- There is a strong need of "imbibing the culture of privacy" among the general populace and also to cultivate the sentiment of "ownership of data". India has been a country having to culture of individualistic rights for long, not in this age of intangibles the need has arisen for the ownership of data.