

NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination – Jan - May - 2024

Semester: UG VIII Semester

Subject: Comparative Privacy and Data Protection Law (Optional)

Marks: 100

Time: Three Hours

Instructions:

1. All questions carry equal marks.
2. Kindly answer any five out of six questions.

Q 1) “The ontological interpretation of informational privacy suggests that one’s informational sphere and one’s personal identity are co – referential, or two sides of the same coin. ‘You are your information’, so anything done to your information is done to you, not your belongings.” Explain with the help of relevant examples.

(Marks 20)

Q 2) Mr. Parker is a world renowned pop singer. On April 14, 2024, he visited Disneyland with his three children. Dylan, aged 16 years, Mike, aged 10, and Carla aged 5 years. Sunday Mail, published by Associated Newsgroup Ltd. published an article titled, “Family Day Out!” in their offline and online issues dated April 15, 2024, describing the details of Mr. Parker’s family trip. This article was accompanied by a photograph clearly depicting Mr. Parker with his three children. Mr. Parker’s family resides typically in the U.K. since he is from Wales. He wishes to bring an action for misuse of private information and has approached you for legal advice. Kindly advise him accordingly.

(Marks 20)

Q 3) I. Read the following facts and address whether the consent of the data subject is valid according to the provisions of the EU General Data Protection Regulation –

- a. Mr. Roman is signing up for a social media service, “Fakebook.” While signing up, he has to fill in his first name, his last name, his email, and click submit. However above the submit button there is a pre – ticked box which reads “create my account for Whatnot.” “Whatnot” is a messaging service owned by Mega Corporation, which owns Fakebook, and is used frequently by Fakebook users to send messages to their connections on Fakebook.
- b. Ms. Kate is purchasing a “Workbook 365” subscription. The terms of service are listed out in detail. At the end of the terms of service, there are separate unticked tick boxes that require the user to opt in for processing for different purposes in the agreement and additional services such as “I agree to receive product related information and promotions (optional).”



II. Read the following facts and address whether the collection/use/processing of personal data is lawful in the given circumstances as per the provisions of the EU General Data Protection Regulation –

- a. Xtreme Games Corporation is an online video gaming service which provides an immersive gaming experience. Players that use their service are required to upload their photographs and body stats to create virtual versions of themselves, that is avatars for playing their games. The sign up requires the user to fill in their age for verification and consent, but the same is not requested when photographs and body stats are uploaded to create avatars.
- b. Ms. Martha works at Picard's Frozen Dessert in Paris. One day during her shift there was a leak of refrigerant that triggered an allergic reaction in her body and she fell unconscious. The manager called an ambulance and provided the details of her health information to the ambulance crew.

(5 x 4 = Marks 20)

Q 4) Write short notes on any two of the following topics –

- a. "Consent" under The Digital Personal Data Protection Act, 2023
- b. The FIPP of Purpose Limitation.
- c. The FIPP of Transparency.

(Marks 10 x 2 = 20)

Q 5) Read the following facts and address whether the collection/use/processing of personal data is lawful in the given circumstances as per the provisions of the California Consumer Privacy Act, 2018 with the help of relevant provisions. Kindly assume that the head offices of the businesses and the consumers are located in the State of California, These businesses also collect/use/process a huge volume of consumer data regularly.-

- a. Costco runs a loyalty program for its consumers across the United States. It offers a loyalty card in which points are collected based on purchases and discounts are offered accordingly. To avail a card, a consumer has to give their cell phone number, their email and zip code. Emails are also sent to the card holders informing them about ongoing offers. They can however unsubscribe to these emails by clicking a link at the end of every email that reads "If you do not wish to receive information regarding offers, click here to Unsubscribe."
- b. DoctoRx is a tele health care service provider that offers its tele health services through out United States. At the time of signing up for the service the consumer has to submit information such as their name, age, sex, email, diseases or disorders they have been diagnosed with, medications regularly taken etc. The company's website contains a standard privacy policy that has to be accepted during the sign up process. The policy notifies the purposes and intended uses of each category of data separately. However, it does not contain details regarding the parties to whom such data may be transferred, it also does not designate a Data Protection Officer as a point of contact for the consumer, Further, it does not inform the consumer that they can go to the settings dashboard of the website to restrict the sale of their personal data.

(Marks 10 x 2 = 20)

Q 6) The Government of Justitia introduced a Data Retention Regulation, 2023 which allows for retention of telecommunication data such as calls, messages and video – conferences for



the purposes of security of the state. It prescribes a minimum period of data retention, that is 20 years. It however does not prescribe a maximum time period for data retention. Law Enforcement Authorities in Justitia have to take prior permission from the Judicial Magistrate First Class before they can intercept the telecommunication data. The interception however cannot be for a period longer than three months, which can be further extended by three months with the approval of High Court on demonstration of a serious threat to national security by the Law Enforcement Agencies. However, the limitations are applicable only for interception and the data collected may be retained as per the Data Retention Regulation, 2023. Peoples' Justitia is nongovernmental organization that wishes to challenge the constitutional validity of the Data Retention Regulation, 2023. They have approached you for legal advice. Kindly advise them accordingly. The laws and the Constitution of Justitia are pari materia to that of India.

(Marks 20)