



New Whatsapp Policy & Privacy

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This article is based on “**Update debate: On WhatsApp and privacy**” which was published in The Hindu on 18/01/2021. It talks about the issues emanating from the new Whatsapp privacy policy and the need for data protection law in India.

Recently, **WhatsApp has updated its policy**, which states that it may share information of any of its users with its family of companies (Facebook). This new update has caused a lot of concern over the privacy of the people that use this application.

Privacy experts and antitrust bodies have also raised the alarm at this new privacy policy of WhatsApp. Moreover, Indian users are more vulnerable due to the absence of any data protection law.

As the Supreme court in **K. Puttaswamy’s judgment** held that the right to privacy is a fundamental right, the Whatsapp new policy is yet another reason why India needs data protection law.

Issues Related to New Whatsapp Policy

Whatsapp As the Owner of Data: The information that WhatsApp automatically collects and will be sharing with Facebook includes the mobile phone number, user activity, and other basic information of the WhatsApp account.

- WhatsApp’s recent privacy policy to share commercial user data with Facebook establishes that it is the owner of the data rather than an intermediary.
- The policy essentially takes away the choice users had until now to not share their data with other Facebook-owned and third-party apps.

Note: Intermediaries

- The basic definition of intermediaries is that they do not own content and are mere platforms where third-party entities place content.

- This particular status prevents them from liability in case anything unlawful is noticed on their platforms.
 - In such instances, the government directs the intermediary concerned to remove the unlawful content within a specified period.
- If Whatsapp automatically shares the data, it can not be considered as an intermediary.
- In such a scenario it may lose the immunity it has with regard to any objectionable content found on its platform at any given point in time.
- **Against the Recommendations of the Srikrishna Committee Report:** The new Whatsapp policy contradicts the recommendations of the Srikrishna Committee report, which forms the basis of the **Data Protection Bill 2019**. **For Example:**
 - The principle of Data Localisation, which aims to put curbs on the transfer of personal data outside the country, may come in conflict with WhatsApp's new privacy policy.
 - The report stated that using the information for purposes that are reasonably linked to the purpose for which the information was given. However, the updated privacy policy of WhatsApp can be seen as a move to ensure subtle forms of commercial exploitation and micro-targeting by political campaigns **(Cambridge Analytica scandal)**.
- **Sharing of Metadata:** WhatsApp held that the end-to-end encryption clause remains intact, which will ensure that it can't see your messages or share them with anyone. However, with the updated privacy policy, WhatsApp can now share one's metadata, essentially everything beyond the conversation's actual text.

Metadata

- It virtually gives a 360-degree profile into a person's online activity.
- This level of insight into a person's private and personal activities is done without any government oversight at present or regulatory supervision.

Take it or Leave it' Policy: If users disagree with the messaging platform's updated privacy policy, they will have to quit WhatsApp when the new terms of service are set to come into effect.

Way Forward

- **Expediting Data Protection Law:** India's data protection law has been languishing for two years now. If India had a data protection law in place, WhatsApp would not have been able to go ahead with this update in the first place.
 - For instance, WhatsApp's updated privacy policy guidelines won't be applicable if you live in the European Region thanks to the data protection law (**GDPR**) in place there.
 - Therefore, India must expedite the process of finalizing the data protection law.
 - Further, India should use the current WhatsApp issue to update the already under process intermediary guidelines.
- **Public Awareness:** According to many experts, WhatsApp users in India will not care too much about this issue, what with privacy policies being generally difficult to be understood by the public.

Therefore, the government and civil society must engage in awareness programs to make the public aware of the importance of digital privacy.

Conclusion

The privacy of a billion citizens is too important a thing to be left just to the practices of a commercial enterprise. It will be reassuring if a strong law guarantees it.

Drishti Mains Question

"The privacy of a billion citizens is too important a thing to be left just to the practices of a commercial enterprise." In light of the statement, analyze the issues emanating from the new WhatsApp privacy policy and the need for data protection law in India.