

Data Protection Act – An implemented act or an ideal outcome of legal theory?

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Abstract:

At the beginning of the 21st century, the world is experiencing an increase in the number of (sensitive) personal data. The institutional accountability for data exchange and information sharing is a new theme that requires more analysis. As people as data subjects are affected by the global exchange of information through diverse informational chains, regulations through Data Protection Acts have been developed as a mean to tackle the problem of misuse and protection of such data. This paper will discuss the contemporary debate between the right to privacy and national security in international and national law. It offers perspectives upon the legal vacuums created in the process of implementation of Data Protection Acts as seen enshrined in the ECHR Article 8. Picking up a legal framework to regulate the information sharing, this paper tackles the questions if governments as data processors/controllers truly implement this regulatory framework or not and, if not, to whom they are accountable for their breaches and assessing the risks associated with the breaches. The focus lies on the data information, regulations, and practices of governments in the United Kingdom and Netherlands. In a comparative review of the implementations by governments of the acts adopted by the United Kingdom and the Netherlands, one may point out the differences in the acts and their implementation. Since the situation is vague within the Dutch government regarding their data protection policy, this paper aims to shed some light to the current status that governs the Dutch government on data protection policies. The paper findings will contribute drastically to the openness and transparency amongst the Dutch government and public, promoting good practice in handling personal data and setting information standards. The comparative analysis might provide recommendations for future implementation and an understanding of what factors enhance rapid and slow implementations and their weakness.

WORDS: 274

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