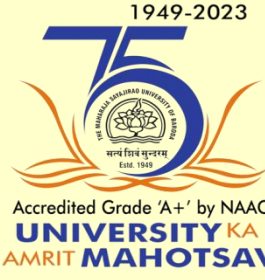




सत्यं शिवं सुन्दरम्

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UNIVERSITY KA
AMRIT MAHOTSAV

Lux Et Veritas 2024

National Law Fest

9th -11th February 2024

Organized By

Faculty of Law

**The Maharaja Sayajirao University of Baroda
Vadodara**



Lux Et Veritas
National Law Fest 2024
Faculty of Law
The Maharaja Sayajirao University of Baroda

Moot Proposition

1. The Union of Orima is a democratic, republic and a federal South Asian nation. It has 28 states and 8 Union Territories and is the third largest economy in the world. It is one of the fastest growing economies and has emerged as one of the preferred locations for businesses. The increased digitalisation has resulted in generation of voluminous personal data. The personal data is being collected by huge number of businesses as a precedent for provision of goods and services. With increased digitalisation the internet traffic has also increased manifolds. Advancement in technology, in collection and data processing, and storage of such processed and unprocessed data and further initiative of the government to digitalise has increased the risks posed to such personal data due to collection, storage and processing of personal data by wide range of enterprises. It can in particular lead to the loss of an individual's privacy, financial loss, exclusion, discrimination or marginalisation.
2. Collection and use of such personal data and information is also resulting in targeted advertisement and recommendations. It has been observed by the experts that collection, storage and processing of such personal data of individuals can result in exploitation of the

people by deduction of their likes, personal characteristics and traits based on the assessment of their choices.

3. Union of Orima is a democratic country and each of its citizens which is a major, i.e., above the age of 18 years is required to hold a card for voting and electing leaders. Voting card contains personal data and information such as name, age, address of each of the citizens.
4. Further Union of Orima in order to bring a system for universal identification for each of its citizens, in 2010 came up with the concept of Basis Card. Basis Card is a 12-digit unique identity number that can be obtained voluntarily by the citizens of Union of Orima based on their biometric and demographic data. It is a mandate to hold the Basis Card and to link the bank accounts and income tax documents with the Basis Card.
5. That one of the renowned survey reports in 2018 revealed that Union of Orima fairs badly when it comes to data protection and protection of privacy of its citizens and ranked 6th in maximum data breaches in the entire world as per the survey report. As per another study by CordBNP, Union of Orima was one of the worst countries hit by data breaches. A need was felt to put in place a data protection law, in order to protect and safeguard and prevent the misuse of the data. That in order to pacify the citizens and to combat the menace of the data breaches being committed in the Union of Orima the government enacted The Digital Personal Data Protection Act, 2020.

6. That despite enacting the law several prominent leaks and breaches involving Base Card were committed which resulted in huge hue and cry amongst the public. Since Base Card was linked to all the medical, financial and other confidential information leak and breaches involving Base Card resulted in huge volumes of personal data and information being leaked. Government entities failed to respond effectively to the case of leaks and breaches.
7. That in 2021 the entire world was hit by pandemic Divoc. Union of Orima in order to combat the menace of the pandemic set-up a portal called Div-Win for vaccination and to keep a record of medical status of its citizen, requiring them to link their user id with their Base Card and mobile number. It was mandated for all the citizens to sign-up with the portal Div-Win in order to get appointment and doses of vaccination. The portal Div-Win further required the citizens to update the status of their health and inform the authorities if they contacted Divoc, and update the status once they recovered from the same. The citizens were also required to provide the details of their medical conditions if any and of the medical insurance held by them at the time of signing up. The pandemic was over in 6 months however, the citizens were not given an option to withdraw their consent to process, store or use of data and were not given an option to request for deletion of such data. The said website was hacked and personal data of millions of people including of celebrities, VIPS and diplomats was leaked.

8. That Union of Orima is a democratic country and dates for its upcoming general elections were also announced. That all the political parties engaged in political propaganda. That one of the parties being JWT indulged in giving out phones which came loaded with two campaign apps. The phone users when opened the apps, it required them to grant full access to contacts and to share other personal information with JWT. This also raised data protection dispute as it resulted in collection of data unauthorisedly.
9. That in another incident one of most reputed government hospital in the Union of Orima, suffered a severe data leaks and breaches. The sensitive and private medical information of 10 million people of Union of Orima, including the data of several VIP patients such as diplomats, and celebrities, of pregnant women and of children and persons with disabilities which were stored with the hospital were leaked.
10. All the affected parties in aforesaid cases addressed letters to the Government to take adequate steps to prevent the leaked data from being misused. The Government refused to accept any liability and did not take any action. SLPs, wanting to hold the government liable for the breach, were filed in the Supreme Court of Union of Orima alleging that the Government has been acting in breach of the Digital Personal Data Protection Act, 2020, and that the leak happened due to the negligence of the Government. The Union, in response, stated that under the Digital Personal Data Protection Act, 2020, they are exempt from any liability in case of a leak and hence, this petition

should be dismissed in limine. The SLPs further alleged that in case of children data processing required the consent of their guardian, however, even after the enactment of Digital Personal Data Protection Act, 2020 no such consent was taken to continue processing the data.

11. The Supreme Court of Union of Orima combined the SLPs to hear them together some of the essential questions which have arisen for determination before the Hon'ble Supreme Court are:
 - a. Is Section 17 violative of the fundamental rights and provisions enshrined in the Constitution of Union of Orima?
 - b. Has the Union of Orima violated the provisions of Section 4 of the Digital Personal Data Protection Act, 2020?
 - c. Has the Union of Orima been acting in breach of the provisions of Section 6, and 8 of the Digital Personal Data Protection Act, 2020?
 - d. Has the Union of Orima been acting in breach of the provisions of Section 9 of the Digital Personal Data Protection Act, 2020?
 - e. Has the Union of Orima been acting in breach of the provisions of Section 13, and 15 of the Digital Personal Data Protection Act, 2020?
 - f. Has the Government violated the fundamental rights by its acts and failure to take steps to rectify or cease the leaks and breaches?

***Parties are free to add more issues.**

NOTE:

1. The laws of Union of Orima and its Constitution are *pari materia* to that of India.
2. The contents of the Digital Personal Data Protection Act, 2020 is *pari materia* to the contents of the Digital Personal Data Protection Act, 2023.
4. The precedents accepted before the Courts in India are accepted by the Supreme Court of Union of Orima.
5. The maintainability of none of the petitions is in question.
6. The names and instances used in the moot court proposition above are purely fictional and any resemblance to any event, person, living or dead, or place is purely coincidental.

The Final Hearing is scheduled to be heard before the Hon'ble Supreme Court on **9th February 2024**.