



Personal Data Protection (PDP) Bill, 2019

Issues and Debate

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Taking cognizance of the growing importance of data protection in India and the need to ensure growth of the digital economy, the Government of India, in July 2017, decided to constitute a Committee of Experts under the Chairmanship of Justice B N Srikrishna to identify key data protection issues in India and recommend methods of addressing them. Soon after the constitution of the Committee, the Supreme Court of India in August, 2017 delivered its landmark judgement in the case of Justice KS Puttaswamy and another vs. Union of India and others, declaring “right to privacy” to be part of the fundamental “right to life” under Article 21 of the Constitution of India. In July 2018, the Committee submitted to the Government its Report titled “A Free and Fair Digital Economy – Protecting Privacy, Empowering Indians” along with a draft Personal Data Protection Bill. Based on the comments received on the draft Bill, the government in December 2019 introduced the Personal Data Protection Bill, 2019 (PDP Bill) in the Lok Sabha, after which it has been referred to a joint select committee of the Parliament. The Bill is expected to come up in the Parliament for passage in the next session (February 2019) after the joint select committee submits its report.

News/Op-ed	Key Takeaway
Parliament must rework the data protection bill <i>By Suyash Rai</i> Hindustan Times December 19, 2019	The subjective nature of the goals and the need for defining control on an on-going basis make this a very discretionary form of regulation , not amenable to the application of simple rules. This also means that the outcomes of regulation cannot be easily measured for a general assessment of performance.
India’s First Data Protection Bill: The Road Ahead <i>By Sunil Chandna</i> ETCIO December 18, 2019	The new data privacy regime (worldwide) intends to protect the users’ fundamental Right to Privacy from risks of unwanted exposure of sensitive information in the digital era. Data protection laws have obligated organizations to formulate stringent measures for protecting user data from any kind of threat — cybersecurity breach, residual data leakage, etc. The end goal is to secure digital citizens including organizations from data breach, and hence, provision of penal action in a majority of data protection statutes.
Need to temper personal data protection law The New Indian Express December 18, 2019	A new watchdog without teeth, with no functional autonomy, would mean governments are legally immune from charges of data-mining, even though the Bill contains a punitive clause for such action.

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<p>The good and bad of the Data Protection Bill <i>By Abraham C Mathews</i> Money Control December 18, 2019</p>	<p>There can be simply no scenario in which allowing the government to intercept, access, and process personal data without strict safeguards can be good for a democracy. Such large powers are inevitably bound to be misused, as we have repeatedly seen. This comes on the back of the December 2018 order by the Ministry of Home Affairs that gave 10 central agencies the power to intercept, decrypt, and monitor information in any computer.</p>
<p>U.S.-India business groups plan to lobby for dilution of India's privacy bill Reuters December 18, 2019</p>	<p>The U.S.-India Business Council (USIBC), part of the U.S. Chamber of Commerce, plans to lobby Indian parliamentarians who will review the bill and will hold meetings with key U.S. government officials. Another influential lobby group, the U.S.-India Strategic Partnership Forum, has told its members it plans to work with other industry bodies and speak to U.S. officials as it looks to address industry concerns on the privacy bill.</p>
<p>E-commerce policy on hold till data Bill gets approval Millennium Post December 16, 2019</p>	<p>The government will finalise the e-commerce policy once the Personal Data Protection Bill, which lays down the guidelines for data processing, is approved by Parliament. The draft e-commerce policy has proposed setting up a legal and technological framework for restrictions on cross-border data flow and has also laid out conditions for businesses regarding collection or processing of sensitive data locally and storing it abroad.</p>
<p>Nasscom, Mobile Association concerned over Bill's non-personal data clause Business Standard December 13, 2019</p>	<p>Commenting on the Personal Data Protection Bill, industry bodies National Association of Software and Services Companies (Nasscom) and Internet and Mobile Association of India (IAMAI) said non-personal data and lack of clarity around deciding significant data fiduciaries were among the main concerns of member companies.</p>
<p>Sending of data protection bill to joint panel sets 'dangerous precedent': Shashi Tharoor PTI December 12, 2019</p>	<p>Senior Congress leader Shashi Tharoor said creating a Joint Select Committee to examine the Personal Data Protection Bill, instead of sending it to the Parliamentary Standing Committee on Information Technology, sets a dangerous precedent as it will allow the government to bypass the designated panel whenever a contentious legislation is under consideration.</p>
<p>Personal Data Protection Bill can turn India into 'Orwellian State': Justice BN Srikrishna The Economic Times December 12, 2019</p>	<p>Justice BN Srikrishna, who led the committee that drafted the Personal Data Protection Bill (PDP), said the bill placed in Parliament on Wednesday, which allows the Centre to exempt its agencies from some or all provisions, is "dangerous" and can turn India into an "Orwellian State".</p>
<p>Privacy Bill allows govt agencies access data from companies without users' consent The New Indian Express December 11, 2019</p>	<p>The draft bill also states that the central government can frame a policy for the digital economy with respect to non-personal data. In particular, it can direct any data processor to "provide any personal data anonymised or other non-personal data to enable better targeting of delivery of services or formulation of evidence-based policies by the Central Government".</p>

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<p>With Great Power Comes Great Responsibility: Why a Progressive Data Protection Bill is Need of the Hour By Kazim Rizvi News18 December 11, 2019</p>	<p>A tight framework with heavy criminal liabilities would act as a deterrent to investments in the digital economy. The Personal Data Protection Bill framework must be evolutionary and incremental in nature, so as to adapt to fast-paced changes in technology. Moreover, a wide range of functions of the proposed Data Protection Authority (DPA) and the power of the government to pass binding directions on the DPA with respect to policy is a concern.</p>
<p>Personal Data Protection Bill: Exemptions for government agencies worry experts The Economic Times December 11, 2019</p>	<p>Privacy activists argue that such exemptions by executive notifications will undermine the Data Protection Authority's adjudicating power. "What if one of the agencies exempt is UIDAI, the largest collector of personal data?" said Apar Gupta, executive director at Internet Freedom Foundation, a digital rights organisation.</p>
<p>Send Data Privacy Bill to standing panel: CUTS Outlook India December 11, 2019</p>	<p>Policy advisory body CUTS International has demanded that the Personal Data Protection Bill must be sent to the Standing Committee on IT and released for public comments and adequate checks and balances. It added that judicial oversight is also required to ensure that exceptions do not become a rule. There was no need to include non-personal data under the Bill. It is altogether a different issue, and is currently being reviewed by an expert committee. The Bill should have refrained from commenting on non-personal data, Pradeep S. Mehta, Secretary General, CUTS International said.</p>
<p>Lok Sabha refers data protection bill to joint panel of Parliament The Economic Times December 11, 2019</p>	<p>Communication and IT Minister Ravi Shankar Prasad, while moving a resolution in the House, said the bill may be referred to a joint committee of the House. The resolution was passed by voice vote. The panel will have 20 members from the Lok Sabha and 10 from the Rajya Sabha.</p>
<p>Explained: The issues, debate around Data Protection Bill The Indian Express December 07, 2019</p>	<p>The umbrella group is all personal data — data from which an individual can be identified. Some types of personal data are considered sensitive personal data (SPD), which the Bill defines as financial, health, sexual orientation, biometric, genetic, transgender status, caste, religious belief, and more. Another subset is critical personal data. The government at any time can deem something critical, and has given examples as military or national security data.</p>
<p>Understanding The Data Protection Bill ETCIO December 06, 2019</p>	<p>The Bill is likely to impact multinational corporations operating in India due to its data localisation requirement and restrictions on cross-border data transfer. It is now essential for us to understand the importance and key features of the bill.</p>

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<p>Data protection bill in its current form has many loose ends which may have unintended adverse impact on MSMEs, start-ups: CUTS KNN News December 06, 2019</p>	<p>"The draft bill in its current form has many loose ends such as requiring data mirroring/localisation which may have unintended adverse impact on consumer welfare, Micro Small and Medium Enterprises (MSMEs) & startups, lack of adequate independence of the proposed DPA, gaps in the notice & consent mechanism for consumers etc," Pradeep S Mehta, Secretary General, CUTS International, highlighted the loopholes in the bills and their impact on the MSMEs. "These must be resolved before it becomes a law. I look forward to the bill being sent to the Parliamentary Standing Committee on Information Technology for addressing these pain points, and hope the bill is made open for larger public consultations," Mehta said.</p>
<p>Government localises 'critical' & 'sensitive' personal data ET Tech December 05, 2019</p>	<p>There's no restriction on other kinds of personal information, partially taking into account the demands of global companies such as Google and Facebook, while aiming to safeguard data sovereignty. The Bill, which has not been made public yet, will be introduced in the current session of Parliament on "priority", said a top government official.</p>