

An Analysis of Personal Data Protection Bill, 2018

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Abstract: *The new Indian Personal Data Security Act adopts and further strengthens several current EU transaction processing control standards and certain elements of regulatory standards in the U.S. model. Global corporations should therefore aim to address, concurrently and traditionally, in the interests of performance, the provisions of the current Indian Data Protection Legislation, the GDPR and other confidentiality regimes. This section explains the Personal Data Protection Bill endorsed by the BN Sai Krishna Committee in the sense of the increasing need for a collection of policies to ensure that citizens' privacy is protected and not compromised, particularly after the Supreme Court of India has established the right of privacy as a fundamental right. The article discusses the highlighting of the bill before critically reviewing it and concluding it with that with the incorporation of the bill in an age where identity theft are frequent.*

Keywords: *Personal Data, Protection, GDPR, Fundamental Rights, Privacy.*

INTRODUCTION

As a word, data security refers to a series of laws aimed at ensuring that a person's privacy is not impeded by the collection, storage and transport of personal data. Personal data usually refers to documentation relating to a person who, whether collected by any government or by any private entity or agency, can be distinguished and from this information or data. Currently, India doesn't really have any verbalise data protection or privacy legislative action. Personal data usually refers to documentation relating to a person who, both collected by any government or by any private entity or agency, can even be distinguished and from this information or data. Currently, India doesn't really have any verbalise data protection or privacy legislative action. However, the related laws in India related to data security are the Information Technology Act, 2000 and the (Indian) Contract Act, 1872. In the near future, India is likely to adopt a codified law on the issue of data security.

In the landmark case of Justice K S Puttaswamy (Retd.) & Anr, on August 24, 2017, Vs. the Indian Union and the Ors. The right to privacy was held by a nine-judge judge of the Supreme Court to be a constitutional right, rendered privacy protection of extreme significance, since some of the other laws or actions of the government cannot violate the right. The decision also paved the way for the Supreme Court's renowned judgement decriminalising homosexuality. Pursuant to Section 69 of the IT Act, any person approved by the Government as well as by any of its officers is expressly authorised by the Government to do so in the interests of Indian sovereignty or dignity, defence of India, security of the Nation, friendly ties with foreign States or law and order or law and order, if it is resolved that it is required or reasonable to do so. In immediately to protect aggression to commit any of the above-mentioned cognizable offences or to investigate any of the above-mentioned offences, for reasons to be reported in writing, any private firm can, by warrant, direct any government agency to monitor, monitor or decrypt or cause any data generated, transmitted, received or stored in any fixed space to be obtained or controlled or decrypted.

The Information Technology (Procedures and Safeguards for Blocking for Access of Information) Rules, 2009, have also been notified under Section 69 A of the Act due to which, various websites have been blocked by the government, time and again.

Section 72 of the Act provides safeguards against any person under it's regulation of the Act who, by virtue of his role, is capable of misusing the information obtained. It states that the court who will have secured access to any electronic record, book, file, contact, records, document or other material without consent of the person concerned, in contravention of either of the powers conferred under the IT Act Rules or Regulations made thereunder reveals these material to every other person, It is prosecuted by imprisonment for a period of up to two weeks, or by a fine of up to Rs 1,00,000 (approx. US\$ 3,000) or both.

Information Technology (Reasonable Security Policies and Procedures and Confidential Personal Data or Information) Regulations, 2011, have been authorized by the government. The rules include the protection of 'personal sensitive informatio' what include personal information consisting of password-related information, financial information along with financial institution or debit card or other payment instrument details, physical, physiological and mental health status, sexuality, physical, physiological and mental health status. Medical records medical history and identification documents is a positive move in the direction of personal data protection and paved the way for better improvements such as the Personal Data Protection Act, whom were addressed in depth in this article..

DISCUSSION

Highlights of the bill

Over the years, rapid technological developments eventually led to the emergence of large amount of data across different activities and the growing dependence of organisations on data-driven decision making. The government has also introduced strategies are using technologies such as the biometric identification system and even the aadhar system to help the government recognise its people through with a specific concept.¹

The bill is the consequence of a committee which was already set up under the chairmanship of BN Saikrishna to investigate the privacy related situation in India and propose methods to be followed more by government to see how the violation of security is minimised. This committee recommended the Personal Data Protection Bill because the responsibilities of the committees include I to investigate various information protection problems in India, (ii) to suggest methods for resolving them, also (iii) to propose a draught Data Protection Bill. Medical records medical history and identification documents is a positive move in the history of privacy protection and paved the way for better improvements such as the Personal Data Protection Act, whom were addressed in depth in this paper.²

Some of the key features of the bill:

- The bill defines concepts such as personal data, computation, personal data, etc. It determines personal data as any information that makes individual data processing

¹ Data protection and privacy statutes in various countries: European Union – The General Data Protection Regulation, 2016; Australia – The Privacy Act, 1988; Canada – The Personal Information Protection and Electronic Documents Act, 2000; The Privacy Act, 1985.

² “A Free and Fair Digital Economy”, Report of the Committee of Experts under the Chairmanship of Justice B. N. Srikrishna.

recognisable as any activity, namely compilation, collection, exchange or storing of data.³

- The Act applies for not only government agencies, but also to private agencies, and not only to those operating in India, but rather to those operating outside of India if they negotiate with citizens born in India.
- The bill allows for the processing of data only with the consent of the individual, although this provision is subject to various exceptions, such as I any role of the Parliament or State legislature or, if necessary by the State, to provide benefits to the individual, (ii) if required by law or to comply with any judgement of the court, (iii) responding to a medical emergency or a breakdown of public order; (iv) for employment-related reasons, such as recruitment; or (v) for legitimate purposes defined by the Data Protection Legal term that refers to activities also including identity verification, debt recovery, credit rating and wiretapping.⁴
- The Bill also defines certain 'sensitive data' information. Such document contains passwords, financial data and biometric also genetic data, caste, religious or cultural views under which the person needs to obtain express permission for the transmission.
- The bill grants such rights to the individual whose data is kept, also including I the right to receive a description of their personal data held with fiduciary data, (ii) the right to request confirmation of wrong, defective or obsolete personal data, (iii) responding to a medical emergency or a breakdown of public safety; (iv) for employment-related reasons, such as recruitment; or (v) for legitimate purposes defined by the Data Protection Legal term that refers to activities also including identity verification, debt recovery, interest rate and wiretapping.⁵

Analysis of the bill:

The bill doesn't always set out what represents the norm that could be considered a fair and rational way of processing information, trusting it to the portfolio managers to behave so according their wishes and desires. Fiduciaries must inform the Data Protection Authority in the event of a data breach. The power granted to the fiduciaries defeats the intent, because there is a guarantee that if they make a mistake, the fiduciaries cannot go through the DPAs. Medical records medical history and identification documents is a positive move in the history of privacy protection and paved the way for better improvements such as the Personal Data Protection Act, whom were addressed in depth in this paper.⁶

The bill allows for the establishment of a fund called your Data Security Awareness Fund, which would carry the costs of the fines levied by the Data Protection Authority for the abuse of data management, which may lead to a conflict of interest when deliberating the cases. On the other hand, the SEBI Act requires that all penalty amounts should be attributed to India's federation account. However, in order to protect the rights of pension fund subscribers, the PFRDA Act, 2013 creates the Subscriber Education and Security Fund. This Fund is compensated with all fines carried out under the Act and used exclusively by the PFRDA.⁷

CONCLUSION

³ Personal data protection Bill, 2018.

⁴ ibid.

⁵ Ibid.

⁶ Justice K. S. Puttaswamy (Retd.) and Anr. vs Union of India and Ors

⁷Section 29, The Pension Fund Regulatory and Development Authority Act, 2013

The Personal Data Protection Act is the correct step towards providing the attention it needs to people's privacy. For unclear purposes, government and private organisations should not move on individuals' private lives and invade privacy. This bill requires fiduciaries to be reviewed and liable for some sort of data breach. The decision of the Supreme Court that privacy is a fundamental right has taken the bill in front and centre as it deals with a problem that cannot be looked away from. The bill has flaws, but it is a strong step on the path of taking seriously the violations of privacy.