Opinion *by Anupam Guha*

The Data Protection bill will enable privacy violation, not guard against it

The Bill in its current form enables massive exploitation of both blue-and white-collar workers. It allows for the state to have unchecked power and virtually makes privacy online meaningless.

ABHISHEK SINGHVI WRITES

D Y Chandrachud got it 90 per cent right – don't troll him

The August 2023 version of the Bill included revisions made after a one-and-a-half-month-long public consultation process with inputs from 38 departments and ministries, 46 industry organisations, and around 21,000 public inputs. (Express File Image)

ANUPAM GUHA

Aug 9, 2023 14:11 IST

Share

Comments

On August 7, the Digital Personal Data Protection Bill, 2023 was passed by the Lok Sabha and sent to the Rajya Sabha, bringing it closer to becoming the first Indian law that will govern how personal data will be collected, used, and processed by public and private entities.

The August 2023 version of the Bill included revisions made after a one-and-a-half-month-long public consultation process with inputs from 38 departments and ministries, 46 industry organisations, and around 21,000 public inputs. This Bill was passed amidst loud protests by the Opposition members of the lower house.

Congress objected to the Parliamentary Standing Committee on Information Technology not being taken into confidence, the Opposition members of said committee walked out, the NCP objected to the centralisation of data, the AIMIM feared the bill would enable a surveillance state, and the RSP stated the Bill violates citizens' right to privac

ABHISHEK SINGHVI WRITES

D Y Chandrachud got it 90 per cent right – don't troll him

Must Read | Data protection Bill passed in L Centre's powers, right to info

The public consultation process for such an important Bill deserves scrutiny. It went on for 42 days, from November 18, 2022, to January 2, 2023. This is too small a window for any intelligent reading of a complex bill. The process

within 2,500 characters. Thus, a critic could not comment on the overlaying logic, gaps, or priors of the Bill, and had to accept the framework, This makes any substantiative criticism impossible.

Also, the comments have not been made public, thus academics cannot access or analyse what the common objections were and if the ministry has responded in any substantial manner to them. In the final analysis, public consultation around this Bill served an ornamental purpose.

There are perilous issues with the content of the final draft, which a short article like this cannot cover. They have been discussed in detail by organisations like the Internet Freedom Foundation. More egregious points have emerged after the consultancy process.

The third clause of the new draft makes the Bill irrelevant for any data made public by the person/organisation who created it, or if that data was public to comply with some legal procedure. This looks innocuous on the surface. After all, publicly available data should be outside any regulation. But it enables harm. Publicly available data on the internet falls prey to data scraping. Automated data scraping with the potential to reveal, via machine learning, individuals did not consent to reveal when harmless data on the internet.

ABHISHEK SINGHVI WRITES

D Y Chandrachud got it 90 per cent right – don't troll him

Social and economic intelligence obtained thus could give first movers monopolistic power, and cause harm to social and economic rights. This is

stringent norms, including brakes on the mass collection of "public" data from social networks. The fact that the Bill does not address this at all makes it a useless law. It fails to tackle contemporary issues with AI companies creating surveillance tech with publicly available personal text and image data — something that violates the essence of the K S Puttaswamy v Union of India (2017) judgment, and creates opportunities for exploitation and predatory behaviour by companies.

Also Read | Nikhil Dey and Aruna Roy write: Data Protection Bill does not protect us — it attacks our rights

Next, the August 2023 draft of the Bill completely alters the process of selection of the members of the Data Protection Board. All members will now be selected by the government. This creates a board controlled by the executive with no independence, contrary to the idea of data justice present in the original draft of the Personal Data Protection Bill created by the B N Srikrishna Committee in 2018.

The appellate tribunal which one can plead to against the decisions of this board has also been changed with no rationale provided as to how it was selected. Simultaneously, the exemptions granted to the government have been expanded. In the earlier versions of the draft, only notified agencies were exempted. Now, any data collected [illegible] if the data is later processed by a differen[illegible]ty of the purpose.

ABHISHEK SINGHVI WRITES

D Y Chandrachud got it 90 per cent right – don't troll him

Finally, aside from the changes that worsen aspects of the Bill, the cynical policymaking of the November 2022 draft remains. Employers, being

employees as long as the collection is deemed for performance evaluation purposes.

This, of course, legitimises ubiquitous invasive data collection in office spaces, invasive biometrics on blue-collar workers, and via apps for gig workers, enabling more sophisticated exploitation while simultaneously universalising a culture of surveillance and chilling worker agency at workplaces.

The "private" is thus made a meaningless concept with corporate rights subordinating public rights; this is also seen with the RTI 2005 Act being diluted, because of which there will no longer be a public interest exception for disclosure of "private" information. Private entities in possession of someone's data under this Bill can also assume consent and share that data with other private entities, for an unspecified duration, without informing the person.

At this juncture, it is unlikely that most or even some of these issues will be addressed by the Rajya Sabha before the Bill becomes law. But it is vital to sharply point out what is wrong with this Bill and to keep educating people on the same. After all, people make their own history, even if under circumstances directly encountered, giv

ABHISHEK SINGHVI WRITES

D Y Chandrachud got it 90 per cent right – don't troll him

The writer is an assistant professor, wo
Ashank Desai Centre for Policy Studies at IIT Bombay

© The Indian Express Pvt Ltd
NewsGuard

Data Protection Bill

Explained News | Political Pulse | Latest Opinion | Mumbai News
Delhi News | Pune News | Bangalore News | Bollywood News
Health News | India News | Sports News | Lifestyle News
Latest News | Cricket | Tech Reviews | Gadgets
Mobile & Tabs | Food & Wine | Elections 2024 | Fitness

TRENDING NEWS

Delhi AQI Today | Delhi Pollution Live | Kanguva Box Office Collection | Kanguva Movie Review
IND Vs SA 4th T20 | Horoscope Today Nov 15 | CSBC Bihar Police Constable Result 2024 | Maharashtra Election 2024 Live
Guru Nanak Jayanti Wishes | Stock Market | Indian Express Subscription UPSC Offer | Buy All-Access Plan
Subscribe To The Indian Express | Buy Digital Premium

LATEST STORIES

Who Is Viktor Gyokeres? Meet Sporting Lisbon's Swedish Striker Who Could Be Football's Next $100 Million-Plus Player | People Can't Tell Difference Between Human, AI-Generated Poetry — New Study | ATP Finals: Taylor Fritz Beats Alexander Zverev To Become 1st American To Enter Final Since 2006 | Businessman Kidnapped, Murdered In Pune For Refusing To Pay Rs 2 Crore Ransom
As UK Farmers Gear Up For Massive Protest Over Inheritance Tax Changes, PM Starmer Says Will Defend Budget 'All Day Long' | Violation Of Model Code Of Conduct: More Than 1,000 Cases Filed, Says Maharashtra Excise Dept Superintendent | Maharashtra Assembly Polls: Rajnath Singh Accuses Congress Of Doing Little For Women | After Trump's Win, India Googles Immigration And H1B, Americans On Ways To Leave The US
Hockey: Odisha, Synonymous With Indian Hockey's Rise, Finally Crowned Men's National Champions | John Krasinski Becomes People Magazine's 'Sexiest Man Alive'; Wife Emily Blunt Says She Will 'Wallpaper Their House' With The Cover | Trophy, pressive a, A Story Goals
Tripura To Upgrade 19 Industrial Training Institutes In Collaboration With Tata Technologies | How Arjun Erigaisi Took Down Magnus Carlsen In 20 Moves In A Blitz Game | 3 Members Of Bhola Gang Arrested In Attempt To Murder Case: Police | Flights To Bali Resume After Volcanic Eruptions; Find Out How 'Vog' Impacts Health

ABHISHEK SINGHVI WRITES

D Y Chandrachud got it 90 per cent right – don't troll him

DOWNLOAD APPS

The Indian Express website has been rated GREEN for its credibility and trustworthiness by Newsguard, a global service that rates news sources for their journalistic standards.

EXPRESS GROUP

The Indian Express
The Financial Express
Loksatta
Jansatta
inUth
The ExpressGroup
Newsletters
Ramnath Goenka Excellence in Journalism Awards
Light House Journalism
CSR

ieTamil.com
ieBangla.com
ieMalayalam.com
ieGujarati.com
IE Education
MyInsuranceClub
26/11 Stories of Strength
Online Classes for Kids
Compare Term Insurance

Privacy Policy
Brand Solutions
Subscribe
This website follows the DNPA's code of conduct

Share

Whatsapp twitter Facebook

Copyright © 2024 The Indian Express [P] Ltd. All Rights Reserved

ABHISHEK SINGHVI WRITES

D Y Chandrachud got it 90 per cent right – don't troll him