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## **Personal Data Protection Bill – Provisions and Issues**

**Personal Data Protection Bill, 2019:** It is based on Justice B N Srikrishna committee. It has following provisions:

- The Bill establishes a Data Protection Authority (DPA) as an independent regulator with quasi-judicial powers.
- Each company will have a Data Protection Officer (DPO) who will liaison with the DPA for auditing, grievance redressal, recording maintenance and more.
- Holistic Approach: The Bill governs the processing of personal data by: government, companies incorporated in India, and foreign companies dealing with personal data of individuals in India.
- The Bill classifies the data into 3 types:
  - Critical data (characterized by the government) must be stored and handled only in India.
  - Sensitive data like passwords, financial data, health data, biometric data, etc may be processed outside India with the explicit consent of the user and to be stored in India only.

- General data is any data that is non-critical and non-sensitive is categorised as general data with no limitation on where it is stored or managed.
- Rights of the individual includes seeking correction of inaccurate, incomplete, or out-of-date personal data, and the Right to be forgotten, i.e., to restrict continuing disclosure of their personal data by a fiduciary.
- Data Processing can be done only if consent is provided by the individual. However, in certain circumstances, personal data can be processed without consent. These include:
  - If required by the State
  - Legal proceedings
  - To respond to a medical emergency.
- Big Social media intermediaries have to provide a voluntary user verification mechanism for users in India.
- The central government can exempt any of its agencies from the provisions of the Act in interest of security of state, public order, sovereignty and integrity of India and friendly relations with foreign states,
- The Bill amends the Information Technology Act, 2000 to delete the provisions related to compensation payable by companies for failure to protect personal data.

### **Opinion:**

Justice (Rtd) BN Srikrishna, has reportedly called it “a piece of legislation that could turn India into an Orwellian state”.

### **Concerns:**

- No independent collegium for the appointment of members to the DPA.
- Open-ended exceptions power to the government.

## **Recent Addition:**

The Personal Data Protection Bill, 2019, was withdrawn by the Union Information Technology Minister in light of the recommendations given by the Joint Committee of Parliament (JCP) on the Law.

## **Conclusion:**

Thus, it appears from above discussion that the bill appears to be a good step in the right direction. However, it has various issues that must be addressed to ensure that in a digital age someone's privacy is not taken for granted.

Vikas gupta

# **Cryptocurrency**

## **What is cryptocurrency?**

- Cryptocurrency or crypto is a form of currency that exists virtually or digitally and uses cryptography to secure transactions.
- It is a digital payment system that doesn't rely on any central bank or banks to verify transactions. It's a peer-to-peer system that can enable anyone anywhere to send and receive payments.
- Cryptocurrency payments systems exist purely on a digital database describing specific transactions. When any transactions take place then it is recorded in a public ledger.
- Cryptocurrency is stored in digital wallets.
- When a cryptocurrency is minted or created or issued by a single issuer, it is generally considered centralized. When implemented with the decentralized control system, it works through distributed ledger technology, typically a blockchain, that serves as a public financial transaction database.

- The first decentralized cryptocurrency was Bitcoin, which was founded in 2009 and remains the best known today. As of March 2022 there were more than 9,000 other cryptocurrencies in the marketplace.
- Recently, the Central African Republic (CAR) became the second country after El Salvador to adopt Bitcoin as legal tender.

### **How does cryptocurrency work?**

- Cryptocurrencies run on a distributed public ledger called blockchain, a record of all transactions updated and held by currency holders.
- Each unit of cryptocurrency is created through a process called mining, (It means by using computer power to solve complicated mathematical problems that generate coins). Users can also buy the cryptocurrencies from brokers, then store and spend them using cryptographic wallets.
- If any person has cryptocurrency, then s\he don't own anything tangible. What s\he owns is a key that allows to move a record or a unit of measure from one person to another without a trusted third party.
- Bitcoin developed in 2009, afterwards cryptocurrencies and applications of blockchain technology are still emerging in the financial sector, and this technology will also be expected to develop in the future. Transactions including shares, bonds, stocks, and other financial assets could eventually be traded using the technology.

### **Cryptocurrency examples**

As of March 2022 there were more than 9,000 other cryptocurrencies in the marketplace. Some of the best known include:

- Bitcoin:- Founded in 2009, it was the first cryptocurrency and is still the most commonly traded. It was developed by Satoshi Nakamoto – widely believed to be a pseudonym for an individual or group of people whose precise identity remains unknown.
- Ethereum:- Developed in 2015, it is a blockchain platform with its own cryptocurrency, called Ether (ETH) or Ethereum. It is the most popular cryptocurrency in the world after Bitcoin.
- Litecoin:- This currency is almost similar to bitcoin but has moved more quickly to develop new innovations, including faster payments and processes to allow more transactions.
- Ripple:- It was developed in 2012. It is a distributed ledger system and can be used to track different kinds of transactions, not just cryptocurrency. The company behind it has worked with various banks and financial institutions.

### **Advantages of cryptocurrency.**

- Transactions with cryptocurrencies are cheaper and faster money transfers.
- It is a decentralized system that does not collapse at a single point of failure.
- Transaction between two parties is easy, as there is no involvement of third parties like credit/debit cards or banks.
- Payments are safe and secured as this system is based on blockchain technology.
- There is also the concept of “wallet” or account address which is accessible by a public key and private key. But the private key is only known to the owner of the wallet.
- Transactions of cryptocurrencies are completed with minimal processing fees.

## **Disadvantages of cryptocurrency.**

- High energy consumption for mining activities of cryptocurrencies.
- Security Issues like criminal activities, money laundering, terrorism etc
- Cryptocurrencies do not have any sovereign guarantee and hence are not legal tender.
- It is believed that cryptocurrency will disrupt markets, industries, including finance and law.
- The market price of cryptocurrencies is also volatile or not stable. Their prices fluctuate very high.
- All over the world, the central bank of any country cannot regulate the supply and price value of cryptocurrencies in the economy. As a result this enhances a risk of financial instability of the country if their use becomes widespread.

## **Cryptocurrencies in India:**

- In 2018, Reserve Bank of India issued a circular preventing all banks from dealing in cryptocurrencies. But later in May 2020 the Supreme Court declared this circular as null and void.
- Recently, the government has announced to introduce a bill; Cryptocurrency and Regulation of Official Digital Currency Bill, 2021, to create its own sovereign digital currency and also simultaneously ban all private cryptocurrencies.
- The Union Budget 2022-2023 of India has proposed to introduce a digital currency in the coming financial year.
- It was also announced that any income from transfer of any virtual digital asset shall be taxed at the rate of 30%.

# Delay in data law

## Delay in data law

### Why in news?

After a Joint Parliamentary Committee gave the Personal Data Protection Bill, 2019 a close look, the administration decided to withdraw it (JPC).

### Origin of the Bill

- The Supreme Court of India ruled that the right to privacy is an essential component of the right to life and the freedom of the individual as protected by the Indian Constitution in the landmark Justice K.S. Puttaswamy (Retd) v. Union of India decision.
- As a result of this ruling, questions about how major digital companies were handling the personal data of their Indian consumers began to surface.
- The Centre established an expert committee in 2017 to develop a legal framework for data protection, which was presided over by retired Supreme Court Justice B.N. Srikrishna.
- On July 27, 2018, the Srikrishna committee sent a draught of the Data Protection Bill and its report to the Ministry of Electronics and Information Technology.
- Justice Srikrishna questioned the Ministry's Bill in Parliament for providing the Central government more power over the data than was intended in the committee's draught.
- Following its deliberations on the Bill, the JPC presented its report in November 2021.
- Clause 35, which permits government agencies to ignore legal requirements by invoking public order, sovereignty, good relations with other countries, and security, was upheld by the JPC.
- Why was the bill withdrawn at this time?

### **The government has withdrawn the law even though it still has access to data**

- The JPC's substantial number of revisions, recommendations, and corrections are identified as the cause.

- In its 542-page report, the JPC made 93 recommendations, 81 modifications, and 97 changes and improvements to the Bill.
- The main suggestion is to broaden the scope of the Personal Data Protection Bill, 2019 to include all data rather than just personal data, which would significantly distance it from its Puttaswamy roots.
- The government's official position is that it is preferable to introduce a new Bill in the face of such a significant reform.

### **What does the Bill have to say about localising data?**

- Any distinctive trait, attribute, or other feature information that can be used to identify a person is referred to in the Bill as personal data.
- Additionally, a subcategory of sensitive personal data was mentioned in the bill.
- Information on a person's finances, health, sexual preferences and habits, caste, political and religious convictions, as well as biometric and genetic information, make up this type of information.
- Additionally, it established a Critical Personal Data Category that included any future "personal data as may be reported by the Central government."
- According to the Bill, although sensitive personal data can be processed abroad, a copy must be preserved in India.
- Only India is permitted to hold and process Critical Personal Data.

### **What worries did the tech sector have?**

- Indian start-ups have complained that the infrastructure required to meet the localization requirements will be a significant financial burden.
- Additionally, startups frequently rely on foreign firms for services like customer management, analytics, and marketing, necessitating the export of consumer data.
- Data localization regulations would limit their options for such services and add to their compliance burden.
- The larger US-based tech corporations are also affected by the compliance requirements.
- According to reports, lobbying opposing the law was being done by US business umbrella organisations.

## What should we do next?

- The government must take into account any new legislation that fits within the overall legal framework.
- One of the JPC's suggestions, which attempted to elevate social media businesses from the status of online intermediaries to content providers, would have been of particular concern to them.
- They are now in charge of the post they host as a result.

**Vivek Raj**



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