

Data Protection Law Should Focus on Privacy

What is the issue?

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- Artificial Intelligence is increasingly shaping a “Technology Centric Human Society” but we need to recognize that technology should be people centric.
- As many seek technological solution for even trivial issues, data protection legislation should be about protecting people and not innovation.

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What are the concerns?

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- The Justice Srikrishna committee has been mandated with the task of making recommendations for a drafting a data protection law.
- The committee is currently hearing the views of various stakeholders like “civil society group, academic experts, technologists, industry etc...”
- While the committee’s work looks promising, its recently published white paper talks about the twin case of “innovation for development” and “privacy concerns”.
- This gives out the opinion that the committee sees privacy as a hurdle to innovation, which isn’t in sync with its mandate of addressing privacy concerns.

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What was the rationale of the privacy judgment?

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- The liberty of the individual finds expression through concepts such as

“autonomy, dignity, choice and freedom”, which is violated if his privacy is.

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- In the “Puttasamy case”, Supreme Court declared privacy as a fundamental right and called for a carefully structured regime for the protection of data.
- This was based on the recognition that privacy violation is an intrusion upon the “personal liberties of citizens” and requires an obligation on the state to act.
- The judgment’s singular conclusion was that “privacy protection laws” should shield individuals rather than commercial interests or technological innovation.
- Some may argue that such a judgment might legally disrupt innovation, but contrarily, a strong law would actually enhance human centric innovation.
- It would make big data subject to greater legality, the Internet of Things best suited to the Internet of people, and AI subject to natural rights.
- To forge such an understanding, one needs to acknowledge that technology is a means for development and not an end in itself.
- The right regulatory design is hence mandatory to prevent pure market mechanisms that concentrate power in a few individuals.

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What is the way forward?

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- 5 years ago, Justice A.P. Shah Committee proposed nine privacy principles based on a “fundamental philosophy” for data protection.
- To operationalize these and account for “innovation” the Shah Committee also recommended, a technology neutral and generic “Privacy Act”
- This was to ensure that the principles and enforcement mechanisms remain adaptable to “technological, social and political” changes in the society.
- However, the recommendations were clearly acknowledged that data protection is about protecting individuals and not about protecting innovation.

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- To ignore these key points now would be a decisive blow to privacy, and hence any new recommendation needs to build on the Shah committee's views.

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Source: The Hindu

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