

## **Draft Data protection bill and its concerns**

### **What is the issue?**

\n\n

The draft data protection bill falls short of nuances in protecting the digital identity of the people and it needs a re-look.

\n\n

### **What are the provisions?**

\n\n

\n

- The draft bill notes that the right to privacy is a fundamental right.

\n

- On data portability, it suggested that critical personal data of Indian citizens, which centre notifies, should be processed in centres located within the country.

\n

- Other personal data may be transferred outside the territory of India with some conditions.

\n

- It has recommended setting up a Data Protection Authority to prevent misuse of personal information.

\n

- It also provides for setting up an Appellate Tribunal.

\n

- It suggested that the Aadhaar Act requires several modifications and provisions for regulatory oversight.

\n

- It also provides for penalties and compensation for violations of the data protection law.

\n

\n\n

### **What are the concerns?**

\n\n

\n

- The UIDAI will be both the data fiduciary and the regulator for Aadhaar, which creates a conflict of interest.  
\n
- Even though personal data can be transferred outside India, data fiduciaries will be required to store a local copy in India, questioning the surveillance requirement of the state.  
\n
- The draft says that processing of sensitive personal data should be on the basis of “explicit consent” of the data principal.  
\n
- However, over dependence on consent and notice is unlikely to succeed in a country with low digital literacy.  
\n
- Though it is mentioned that personal data shall be processed in a fair and reasonable manner, the follow-up measures by the regulator are non-specific.  
\n
- Though the draft provides penalty, only ex-post accountability measures are suggested, whereas preventive measures that needs to be taken before a possible security threat are lacking.  
\n

\n\n

### **What more does the draft could include?**

\n\n

- \n
- The data protection framework should include guidelines for the various use cases of authentication, authorisation and accounting.  
\n
- The committee does discuss artificial intelligence and big-data analytics but it should be followed up by defining clear-cut guidelines for their safe use.  
\n
- There should be detailed analyses of how state surveillance can be achieved without enabling undesirable mass surveillance that may threaten civil liberty and democracy.  
\n
- The bill needs to evaluate the data processing requirements of the diverse private sector and how these requirements may infringe upon privacy.  
\n
- Finally, protection against both external and insider attacks in large data establishments, both technically and legally has to be ensured at any cost.  
\n

\n\n

\n\n

**Source: The Indian Express**

\n\n

\n

