Legislating for Data Protection

Why in news?

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The recent SC verdict on ‘Right to Privacy’ has brought the debate on data protection to the fore again but has some sticky points.

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What is the current scenario?

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- Currently, data protection provisions are part of the ‘IT Act’ rules - 2011 and work is underway to draft a separate legislation for the same.
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- Till now, there was no way to regulate private enterprises that access messages, notifications and contacts without the customer’s knowledge.
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- The recent recognition of the right to privacy as a fundamental right will be a major game changer.
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How has the verdict fared in the data protection context?

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- New technologies offer us facilities and services that enhance our quality of life.
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- Most of these new technologies rely on big data and machine learning, which in turn depend on access to large data sets.
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- While the verdict has corrected the misgivings of the past, it hasn’t clearly envisioned the future in its view on data protection.
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- The pronouncement seems to favour a strict notice and consent-based framework, which could affect our ability to get the most out of modern

technology.
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- In the face of a rapidly increasing number of devices and systems that constantly collect information in ways that we cannot completely comprehend, consented collection is infeasible.
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What is the better alternative?

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- Regulators around the world have begun to discard the principle of notice and consent that guided their actions for over three decades.
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- They have, instead, begun to rely on models such as accountability to address the challenges of a disruptive future.
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Source: Livemint

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