

## Personal Data Protection Bill

### Why in news?

Recently there was a large data breach at MobiKwik which has put the data of 9.9 crore users at risk.

### Why such incidents are happening?

- The pandemic has forced people to participate in the digital economy.
- More people have taken to digital channels to fulfil a variety of needs like purchasing groceries and accessing health services.
- This has increased the number of personal data breaches from major digital service providers and the existing data protection regime in India is not able to address this.

### What are the issues with the existing data protection regime?

- Currently, the Information Technology Act, 2000 regulates the entities which collect and process users' personal data in India.
- However, this data protection regime fails to provide effective protection to users and their personal data.
- For instance, entities could easily override the protections by taking users' consent to process the personal data under broad terms and conditions which users might not understand.
- Further, the framework emphasise more on data security but does not place enough emphasis on data privacy.
- So the entities employ technical measures to protect personal data but fail to respect users' preferences in processing the personal data.
- Also the data protection provisions under the IT Act do not apply to government agencies.
- Moreover the existing law is inadequate to address the risks emerging from new developments in data processing technology.

### What are the steps taken to address these flaws?

- The Supreme Court's verdict in the **K.S. Puttaswamy (Retd) v. Union of India** case highlighted the need for a more robust data protection law.
- It established the right to privacy as a fundamental right and called for a

data protection law that can effectively protect users' privacy over their personal data.

- Consequently, **B.N. Srikrishna** Committee was formed to suggest a draft data protection law.
- Later Personal Data Protection Bill, 2019, was drafted and it now under scrutiny by a Joint Parliamentary Committee.
- But the Bill, in its current form, is a revised version of the draft legislative document proposed by the Committee.

### **How is the proposed bill different from the existing law?**

- First, the bill seeks to apply the data protection regime to both government and private entities across all sectors.
- Second, it emphasises on data security and data privacy- entities must ensure safeguards to protect personal data and are in obligation to take transparency and accountability measures to uphold users' privacy.
- Third, the bill seeks to give users a set of rights over their personal data and means to exercise those rights.
- For instance, user will be able to obtain information about the different kinds of personal data that an entity has about them and how the entity is processing that data.
- Fourth, the bill seeks to create an independent and powerful regulator known as the Data Protection Authority (DPA) which will monitor and regulate data processing activities to ensure compliance.
- Moreover, the DPA will give users a channel to seek redress when entities do not comply with their obligations.

### **What are issues in this bill?**

- Though the bill can bring a massive and meaningful change to personal data protection in India, several provisions creates a cause of concern.
- For instance, under clause 35, the Central government can exempt any government agency from complying with the bill which will dilute the user protection safeguards.
- And the government agencies can now process personal data without following any safeguards which can create severe user privacy risks.
- The bill threatens users with legal consequences who withdraw their consent for a data processing activity.
- The users might now find it difficult to enforce various user protection safeguards in the bill.

**Source: The Hindu**

