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03/08/2018

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Accessing data stored abroad is the major hurdle for Indian law enforcement agencies in investigating and prosecution of crimes. To what extent the data localisation clause included in the recent draft data protection bill address the issue. Discuss.

PROBLEMS FACED BY INDIAL LAW ENFORCEMENT AGENCIES:

At present India is relying on Mutual Legal Assistance Treaty (MLAT) for data sharing with other countries. This one is a tedious process. In respect of US it completely restricts the companies to share data without receiving a federal warrant from the US authorities.

DATA LOCALISATION

In order to overcome the hurdles in the MLAT the Srikrishna Committee has proposed that a copy of personal data should mandatorily be stored in a server located in India. Because the committee is of the view that the storage of data in India will provide a strong claim over it. But the situation will remain the same.

And the draft bill mandates to store personal data only related to Indians. This implies that the law enforcement agencies can access only data related to crimes where the victim and suspect are both Indians.

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In respect of transnational crimes the perpetrator will be of foreign country and that would be stored abroad. And the law enforcement agencies has to rely on the old MLAT.

The proposed bill tries to ensure that the law enforcement agencies has access to data to investigate crimes. But it has not brought any changes to the current scenario. and it imposes some additional cost for the tech companies.

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