

DATA PRIVACY IN INDIA: CRITICAL ANALYSIS OF DIGITAL PERSONAL DATA PROTECTION BILL, 2022

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ABSTRACT

Data Protection and Privacy Rights have caught the eye of most countries around the globe. There is an undisputed consensus amongst nations worldwide that data is a powerful tool for development, and it must be regulated. GDPR is considered a torch bearer and fundamental legislation to guide the nations as to the integral rights and duties that should be included in legislation to serve its purpose and meet the requirements of today's digitally evolving globalized world. Indian Government has been making efforts to frame such a regulation since 2018 after the landmark judgment of KS Puttaswamy and has until now come up with 4 different drafts, the latest being the one released in August 2022. The Bill, 2022 is formulated after reviewing the best practices and data protection laws of the European Union, Australia, the USA, and Singapore. The Bill, 2022 was open to Public comments and opinions until 2nd January 2023 and now the government's response is still awaited. This Paper seeks to analyze and briefly explain the key provisions of the Digital personal data protection bill, 2022. Some key differences and comparisons between GDPR, the previous Bill of 2019, and the current Bill, 2022 are also highlighted. The Bill, 2022 undoubtedly, aims at bringing a balance between the right to privacy and the interests of fiduciaries for balanced digital growth. But, there are some vague and inconsistent provisions lacking foreseeability that require reconsideration and revisiting by the parliament such as exemptions and powers given to the central government, exclusion of sensitive personal data as a category, deemed consent as concept, composition, term, and functions of the Data Protection Board, cross border transfer of data, etc. The author's primary aim is to highlight and discuss the key features of the Digital personal data protection bill, 2022.

Keywords: Data protection; Bill, 2022; Data; Privacy; Personal data; GDPR

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WHY DOES INDIA NEED PRIVACY REGULATION?

Data is the oil of the 21st century, primarily an era of globalization, digitalization, technology, Innovations, Artificial Intelligence, IOT, etc. Regulating the Data in terms of processing, usage, storage, and transfer is even more integral for a nation like India owing to the following kind of developments, to mention:

- India is 3rd largest startup ecosystem¹ in the world after USA and China.
- According to the Economic Survey 2022–23, which Nirmala Sitharaman, the Minister of Finance and Corporate Affairs, submitted to Parliament, internet penetration increased by a remarkable 200% in India's rural areas between 2015 and 2021, as opposed to 158% growth recorded in urban areas over that same period. The expansion of UPI throughout regions was also fueled by the expansion of the internet. Between 2019 and 2022, UPI-led transactions increased by 115% in volume terms and 121% in value terms.²
- The National Payments Corporation of India approved the use of international mobile numbers and Indian bank accounts for UPI by NRIs from ten different countries in January 2023. Recently, the RBI announced that travelers entering India from G20 countries will for now be permitted to make payments for merchant facilities using UPI.³
- India will be challenged to find ways to manage Data Free Flow with Trust (DFFT) and cross-border data flows given the G20 presidency and numerous Free Trade Agreements (FTA) and Regional Trade Agreements (RTA) that are changing and evolving cross-border digital transformation.⁴
- PhonePe, which has the largest market share in UPI transactions, is the first fintech giant to enable cross-border UPI payments, allowing Indians traveling abroad to pay

¹ “India Becomes Third Largest Startup Ecosystem in World within Span of Six Years, Says Union Minister Piyush Goyal” (*News On AIR - News Services Division, All India Radio News*) <<https://newsonair.gov.in/Main-News-Details.aspx?id=443622>> accessed March 22, 2023

² “Economic Survey 2023: India Clocked 200% Increase in Rural Internet Subscriptions in Six Years” (*Business Today* January 31, 2023) <<https://www.businesstoday.in/economic-survey/story/economic-survey-2023-india-locked-200-increase-in-rural-internet-subscriptions-in-six-years-368250-2023-01-31>> accessed March 22, 2023

³ “Now, Tourists from G20 Countries Will Get to Use UPI Instead of Cash in India” (*Business Insider* February 8, 2023) <<https://www.businessinsider.in/finance/news/tourists-from-g20-countries-will-get-to-use-upi-instead-of-cash-in-india/articleshow/97730853.cms>> accessed March 22, 2023

⁴ Nayak S, “Digital Personal Data Protection Bill 2022: Reservations and Recommendations” (*ORF*) <<https://www.orfonline.org/expert-speak/digital-personal-data-protection-bill-2022/>> accessed March 22, 2023

foreign merchants using UPI. Under this facility, foreign currency will be debited from the user's bank account just like it would with an international debit card transaction. According to PhonePe, all foreign merchant outlets with local QR codes in the UAE, Singapore, Mauritius, Nepal, and Bhutan are supported.⁵

- There are 1.15 billion wireless telephone subscribers in India, according to Telecom Subscription Data⁶. Indian wireless telephone subscribers are at 1.15 billion.⁷ Around 330 million people use Facebook, 467 million people use YouTube, and 230 million people use Instagram as of early 2022.⁸ Due to this reason, big giants like Facebook, Twitter, Instagram, Snapchat, WhatsApp, etc. are considering India as their significant market.⁹

DIGITAL PERSONAL DATA PROTECTION BILL, 2022

The Ministry of Electronics and Information Technology (“MEITY”) released a draft of the Digital Personal Data Protection Bill, 2022 (“Bill, 2022”) after the previous draft Personal Data Protection Bill of 2019 (“Bill, 2019”) was withdrawn in August 2022. The aim of Bill, 2022 is to strike a balance between data protection and privacy; and the necessary processing of personal data to stay relevant in this tech-driven world for innovations, digital economic growth, and the public good.

SCOPE AND APPLICABILITY OF BILL, 2022

'Personal data' has been broadly defined under clause 2(13) as “any data about an individual who is identifiable by or in relation to such data”. Although, the term “Digital Personal Data”¹⁰ has not been defined anywhere in the Bill, 2022.

⁵ Knn India - Knowledge & News Network, “Phonepe Becomes First Indian Fintech to Allow International UPI Transactions” (*KNN Knowledge & News Network*) <<https://knnindia.co.in/news/newsdetails/sectors/financefintech/phonepe-becomes-first-indian-fintech-to-allow-international-upi-transactions>> accessed March 22, 2023

⁶ <https://traigov.in/sites/default/files/PR_No.72of2022.pdf> accessed March 21, 2023

⁷ Nayak S, “Digital Personal Data Protection Bill 2022: Reservations and Recommendations” (*ORF*) <<https://www.orfonline.org/expert-speak/digital-personal-data-protection-bill-2022/>> accessed March 22, 2023

⁸ Kemp S, “Digital 2022: India - DataReportal – Global Digital Insights” (*DataReportal* February 15, 2022) <<https://datareportal.com/reports/digital-2022-india>> accessed March 22, 2023

⁹ Bureau DN, “India Top Market for Rolling Out New App Features: FB” (*DT next*) <<https://www.dtnext.in/business/2022/10/26/india-top-market-for-rolling-out-new-app-features-fb>> accessed March 22, 2023

¹⁰ “Key Features and Issues in the Digital Personal Data Protection Bill, 2022” (*S.S. Rana & Co.* March 9, 2023) <<https://ssrana.in/articles/key-features-issues-digital-personal-data-protection-bill-2022/>> accessed March 22, 2023

Extraterritorial Application - like GDPR, The Bill, 2022 is agnostic as to where the personal data is until it has some nexus to India.¹¹ The Bill, 2022 provides in clause 4 that the Act is applicable to the processing of digital personal data within the Indian Jurisdiction:

- Data collected online;
- Data that is collected offline and then digitized;
- Processing of digital personal data outside of India's borders provided that processing is related to any profiling of, or offering of goods or services to, Data Principals within India's borders.

Additionally, it will not be applied to:

- Non-automated data processing;
- Offline personal information;
- Any individual processing data for either domestic or personal purposes
- 100 years old documents recorded that are personal details.

KEY FEATURES OF BILL, 2022

Use of She/Her - The Bill, 2022 progressively, for the first time uses the pronouns “her” and “she” for individuals, regardless of their gender to promote the idea of women’s empowerment which is applauded by everyone so far.

Data Categorization into Sensitive Critical Data - Unlike GDPR¹², the Bill, of 2022 doesn’t provide for any distinction between Personal Data and Sensitive Personal Data. This approach of treating unequal as equals¹³ can be dangerous, in the light of sensitive personal data such as religious beliefs, medical records, biometric information, etc., which requires extra protection, more robust compliance, and severe penalties if mishandled.

¹¹ Sundara K and Narendran N, “Protecting Digital Personal Data in India in 2023” (2023) 24 Computer Law Review International 9

¹² “Art 9 GDPR” <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679>>

¹³ Anirban Mohapatra, “The Digital Personal Data Protection bill, 2022 - part I” (India Corporate Law March 24, 2022)<<https://corporate.cyrilamarchandblogs.com/2022/11/the-digital-personal-data-protection-bill-2022-part-i/>> accessed March 22, 2023

Significant Data Fiduciary - The Bill, 2022 under clause 11 provides that “the Central Government may notify any Data Fiduciary or class of Data Fiduciaries as Significant Data Fiduciary, on the basis of an assessment of relevant factors, including but not limited to:

- a. The volume and sensitivity of personal data processed;
- b. Risk of harm to the Data Principal;
- c. Potential impact on the sovereignty and integrity of India;
- d. Risk to electoral democracy;
- e. Security of the State;
- f. Public order; and
- g. Others as it may consider necessary”

These Significant Data Fiduciaries are subjected to additional obligations such as the mandatory appointment of a data protection officer (*DPO*)¹⁴ who shall be based in India and will be responsible for significant data fiduciary. He will appoint an Independent Auditor for evaluating the compliance of significant data fiduciaries with the provisions of this Bill, 2022, and shall ensure periodic audits and Data Protection Impact Assessments (*DPIA*)¹⁵.

Consent - In Bill, 2022, clause 7 mandates for taking consent via an itemized¹⁶ notice (a Consent Notice or Privacy Notice) which provides in clear, plain, concise, and unambiguous language the kind of data that is being collected, and stored and a description of the purpose of the processing of such data. This is worth noticing that it is opposed to “granular” consent, a requirement under GDPR, especially for sensitive data.

Further sub-clauses of clause 7 provide that it is mandatory to provide the contact information of the data protection officer, wherever applicable, or any other person authorized by the data fiduciary to respond to the requests of the data principle. Subsequent sub-clause also lays down the right to withdraw the consent with the proportionate ease with which the consent was given in the first instance.

¹⁴ Clause 11(2)(b) of Bill, 2022<https://www.meity.gov.in/writereaddata/files/The%20Digital%20Personal%20Data%20Potection%20Bill%2C%202022_0.pdf>

¹⁵ Clause 11(2)(c) of Bill, 2022<https://www.meity.gov.in/writereaddata/files/The%20Digital%20Personal%20Data%20Potection%20Bill%2C%202022_0.pdf>

¹⁶ Clause 6 of Bill, 2022<https://www.meity.gov.in/writereaddata/files/The%20Digital%20Personal%20Data%20Potection%20Bill%2C%202022_0.pdf>

Clause 6(3) of Bill, 2022¹⁷ provides for an option for the data principle to access the itemized notice in English or any other language prescribed in Schedule 8 of the Indian Constitution, for a better understanding of the collection, storage, and processing of their personal data.

Consent Managers - The consent Manager¹⁸ will be the data fiduciary who shall enable the data principle to give, manage, review, and withdraw her consent via a platform that is easily accessible, transparent, and interoperable. The Consent Manager will be accountable¹⁹ to the data principle and shall be registered with the data protection board.

Deemed Consent - The introduction of the concept of “Deemed Consent”²⁰ is weakening the Bill, 2022 to a much greater extent. A Data Principle will be considered to have given a Deemed consent in the following circumstances if the data processing is considered necessary:

- The execution or implementation of any legal duty.
- For compliance with any court ruling or order made in accordance with any legal provision.
- For dealing with a health emergency posing a serious risk to the [person's] life or immediate health, or any other person's life or immediate health.
- For taking actions to ensure the safety of, or offer services or assistance to, any person during a disaster or any breakdown of public order, amongst other things.
- When someone is ‘reasonably expected’ to provide personal information to a company voluntarily, when ‘publicly available personal data’ is processed, or when credit scoring is used.

Data Fiduciaries can now process personal information for any “lawful purpose, not expressly forbidden by the law provided an express or deemed consent is obtained”²¹. This provision has

¹⁷Clause 6(3) of Bill, 2022<https://www.meity.gov.in/writereaddata/files/The%20Digital%20Personal%20Data%20Potection%20Bill%2C%202022_0.pdf>

¹⁸ Clause 7(6) and 7(7) of Bill, 2022<https://www.meity.gov.in/writereaddata/files/The%20Digital%20Personal%20Data%20Potection%20Bill%2C%202022_0.pdf>

¹⁹ Clause 7(7) of Bill, 2022<https://www.meity.gov.in/writereaddata/files/The%20Digital%20Personal%20Data%20Potection%20Bill%2C%202022_0.pdf>

²⁰ Clause 8 of Bill, 2022<https://www.meity.gov.in/writereaddata/files/The%20Digital%20Personal%20Data%20Potection%20Bill%2C%202022_0.pdf>

²¹ Clause 5, Bill 2022<https://www.meity.gov.in/writereaddata/files/The%20Digital%20Personal%20Data%20Potection%20Bill%2C%202022_0.pdf>

done away with certain essential qualifiers as compared with the previous bill of 2019 i.e. “processing be done only for the specific, clear, and lawful purposes for which data was collected and reasonable incidental purposes, in a fair and reasonable manner, ensuring the privacy of the Data Principal”²². These changes, if made in the revised Bill, 2022, can help in aligning the current legislation with the SC Judgment of KS Puttaswamy²³ and fundamental principles like digital minimization and purpose limitation.

Consent of Children and its practical implementation - Clause 10 of the Bill, 2022 lays down additional obligations while processing the personal data of children below the age of 18 years. As per the Bill, 2022 the data fiduciary shall be required to obtain “verifiable parental/legal guardian’s consent” in a manner as may be notified. Further to add on, data fiduciaries are barred from engaging in actions such as tracking, behavioral monitoring of children, or targeted marketing to children which can have a huge impact on the business models of companies like Facebook Inc. (now Meta Programs) or Snap Inc. or Google Inc. or other advertisement/subscription centered tech-based startups.²⁴

No Specific technical or Security Standards - Unlike the GDPR which prescribes IS/ISO/IEC 27001, Bill, 2022 doesn’t prescribe any specific security standards. In clauses 9(3) and (4), it is simply mentioned that data fiduciaries should ensure reasonable security standards to prevent data breaches and implement appropriate technical and organizational standards.

Data fiduciaries are not obliged to prepare a privacy policy design²⁵ - No Specific provision to obligate data fiduciaries to publish a Privacy policy as against the Consent Itemised Notice in the current bill of 2022. Although, this is already prescribed for intermediaries under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.²⁶

Cross Border Data Transfer - Clause 17 of the Bill, 2022 allows for the cross-border transfer of personal data of data principals by the data fiduciary only to the countries or territories as

²² Clause 5, Bill, 2019 {Also refer to Clause 4 and 6 of the Bill, 2019} <http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/373_2019_LS_Eng.pdf>

²³ Justice KS Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1 (“Puttaswamy”)

²⁴ Nayak S, “Digital Personal Data Protection Bill 2022: Reservations and Recommendations” (*ORF*) <<https://www.orfonline.org/expert-speak/digital-personal-data-protection-bill-2022/>> accessed March 22, 2023

²⁵ “Art. 25 GDPR – Data Protection by Design and by Default” (General Data Protection Regulation (GDPR) March 28, 2018) <<https://gdpr-info.eu/art-25-gdpr/>> accessed March 22, 2023

²⁶ Arun Prabhu AM, “The Digital Personal Data Protection Bill, 2022 - Part I” (India Corporate Law November 24, 2022) <<https://corporate.cyrilamarchandblogs.com/2022/11/the-digital-personal-data-protection-bill-2022-part-i/>> accessed March 22, 2023

notified by the central government in accordance with the terms and conditions as may be specified. The Bill is, however, silent on all other factors including data localization (one of the contentious parameters of the Bill, 2019)²⁷ as of now, and will be dependent on executive guidelines for further processing.

RIGHTS OF DATA PRINCIPAL

Right to erasure²⁸ and retention period: The Bill, 2022 lays down Clause 9(6) under the general duties of the data fiduciary states that when it is reasonable to assume that the purpose for which such personal data was collected is no longer being served by its retention or retention is no longer required for "legal or business purposes", the data fiduciary must cease to retain or deidentify or erase the personal data. The right to correction and erasure of personal data finds a specific mention in clause 13 of the Bill, 2022 wherein clause 13(2)(d) provides that the personal information that is no longer required for the purpose of processing was done for unless its retention is required by law. The inclusion of words like "business purpose" and "legal Purpose" in the absence of any explanatory definitions can invite arbitrary usage and can lead to misuse of the data in the hands of data fiduciaries.

Right to Post-mortem Privacy: The Bill, 2022 recognizes the right of post-mortem privacy as the right to a nominate under clause 15, wherein another individual can be nominated in case of incapacity or death of the data principal to exercise the rights of the latter provided under the said Bill, 2022 on his/her behalf.

Right to Grievance Redressal: Under Clause 14, the data principals are given the right to grievance redressal against the data fiduciary with an extended right to file a complaint with the Board in case of an unsatisfactory response from the data fiduciary within seven days or a shorter period as may be prescribed.

Right to Information: Although the Bill, 2022 provides the right to access the information from the data fiduciary²⁹ including information about third parties with whom the personal data

²⁷ Bansal G, "Council Post: Digital Personal Data Privacy Act, 2022 - Is India Taking Privacy Seriously?" (Analytics India Magazine 2023) <<https://analyticsindiamag.com/digital-personal-data-privacy-act-2022-is-india-taking-privacy-seriously/>> accessed March 22, 2023

²⁸ "Art. 17 GDPR – Right to Erasure ('Right to Be Forgotten')" (General Data Protection Regulation (GDPR) June 12, 2017) <<https://gdpr-info.eu/art-17-gdpr/>> accessed March 22, 2023

²⁹ Clause 12 of Bill, 2022 <https://www.meity.gov.in/writereaddata/files/The%20Digital%20Personal%20Data%20Protection%20Bill%202022_0.pdf>

is being shared³⁰, there are no timelines provided for responding to the request of the data principal, in contrast to GDPR or CCPA which provide for a fixed timeline of 30 days and 45 days respectively within which the request of data principal should be responded to.

Article 33 of GDPR³¹ mentions that the data breach notification shall go to the stakeholders including the data principal within 72 hours of breach discovery while in the Bill, 2022 it is again left to “as may be prescribed” under clause 9(5).

Definition of ‘Public Interest’- The current Bill’s language allows for data gathering based on the public interest defined extremely broadly to include “the interest of India’s sovereignty and integrity, state security, friendly relations with foreign states, maintenance of public order, preventing incitement of any of the aforementioned activities (like undermining public order), and preventing the dissemination of false statements of fact.” The adoption of “Public interest” as determining criterion is giving enormous power to the ruling government to use personal information can allow government agencies to absolve accountability and do mass surveillance of individuals.

Unbridled Powers to Central Government – Enormous powers are given to the government under the present Bill, 2022 without any checks and balances, in the form of “as may be prescribed” or “as may be notified” which can be used by the government as per its fancy and whims. Additionally, certain other specific exemptions are laid down under clause 18 of the Bill, 2022 such as:

- The state and its instrumentalities can retain the data as opposed to clause 9 of the Bill if so prescribed by the union government.
- Depending upon the volume and nature of data being processed, the central government may exempt certain data fiduciaries or classes of data fiduciaries from obligations of ceasing to retain the information, parental consent in case of processing data of children, significant data fiduciary’s additional obligations such as appointing a DPO, getting done a DPIA; or right of data principal to access information.

³⁰ Clause 12(3) of Bill, 2022 <https://www.meity.gov.in/writereaddata/files/The%20Digital%20Personal%20Data%20Potection%20Bill%2C%202022_0.pdf>

³¹ “Art 33 GDPR” <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679>>

- Processing personal data is required to maintain India's sovereignty and integrity, maintain state security, maintain friendly relations with foreign states, maintain public order, prevent personal data required for maintaining the sovereignty and integrity of India, maintaining state security, maintaining friendly relations with foreign states, maintaining public order, or preventing incitement to any cognizable offense related to any of these.
- Processing of personal information required for research, statistical or archiving purposes.

These exemptions are utterly subjective and can easily be exploited by the government owing to the broad undefined grounds mentioned herein such as “security of the state”, “public order” etc. which can ironically work against the public interest. Based on such grounds, there have been horrific and arbitrary usage of laws like UAPA, Sedition Law, section 144 CRPC, and internet shutdowns³² to cite some as glaring examples having sufficient contemporary and historic evidence. Moreover, the alleged involvement of central agencies in Pegasus Spyware for unauthorized snooping and the surveillance of personal data should be considered an alarming red signal while vesting central government with extensive sub-delegation and such sweeping powers.³³

Data Protection Board of India - The Bill proposes the Data Protection Board of India³⁴ for adjudication purposes as opposed to Data Protection Authority contemplated in the Bill, 2019³⁵. Although, the Bill, 2022 mentions that “the allocation of work, receipt of complaints, formation of groups for hearing, the pronouncement of decisions, and other functions of the Board shall be digital by design”. The Bill, 2022 is silent about the composition, term, function, removal of members, interim measures, etc. It gives the power of sub-rulemaking to the central government to notify and prescribe as it may decide. The Board is given the powers and status

³²Miqbal, “India's New Data Bill Is a Mixed Bag for Privacy” (Atlantic Council November 23, 2022) <<https://www.atlanticcouncil.org/blogs/southasiasource/indias-new-data-bill-is-a-mixed-bag-for-privacy/>> accessed March 22, 2023

³³Mohanty P, “Draft Data Protection Bill: Free Pass to Breach Privacy” (Fortune India: Business News, Strategy, Finance and Corporate Insight November 24, 2022) <<https://www.fortuneindia.com/amp/story/opinion%2Fdraft-data-protection-bill-free-pass-to-breach-privacy%2F110505>> accessed March 22, 2023

³⁴ Clause 19 of Bill, 2022 <https://www.meity.gov.in/writereaddata/files/The%20Digital%20Personal%20Data%20Potection%20Bill%2C%202022_0.pdf>

³⁵ Clause 41 of Bill, 2019 <http://164.100.47.4/BillsTexts/LSBillTexts/Asintroduced/373_2019_LS_Eng.pdf>

of a civil court³⁶ and the High court will be the appellate authority for any decision of the board. Further, Board is given the power to refer any dispute for Alternative Dispute Resolution³⁷ and an additional provision to Voluntary undertakings³⁸ in case of compliance. The point of contention here is that the Board should be an independent quasi-judicial body so that individuals' fundamental right to privacy can be protected in its true spirit without the interference or influence of the government in power.³⁹ Otherwise, the power imbalance that existed between private entities and consumers shifts to the government and consumers in the absence of an autonomous body.⁴⁰

Liability for non-compliance- Hefty financial penalties are imposed in case of non-compliance or violation of the provisions of the Bill, 2022, however, criminal imprisonment fails to find any place in the present Bill. Bill, 2022 provides for fines from 10,000 to 250 Cr, with an upper limit of 500 Cr in each instance.⁴¹ It is being argued that such heavy penalties can impede the growth of startups.⁴² A peculiar feature of the Bill, 2022 is that under clause 16 it imposes a duty on the data principal to furnish the correct and accurate personal verifiable information; and not to register false and frivolous complaints failing which can invite a penalty of Rs 10,000.

The proposed amendment in RTI Act, 2005 - The current Bill, 2022 provides for an amendment in section 8(1j) of the RTI Act, 2005 via clause 30 of the Bill, 2022 which

³⁶ Clause 21(13) of Bill,

2022<https://www.meity.gov.in/writereaddata/files/The%20Digital%20Personal%20Data%20Potection%20Bill%2C%202022_0.pdf>

³⁷ Clause 23 of Bill,

2022<https://www.meity.gov.in/writereaddata/files/The%20Digital%20Personal%20Data%20Potection%20Bill%2C%202022_0.pdf>

³⁸ Clause 24 of Bill,

2022<https://www.meity.gov.in/writereaddata/files/The%20Digital%20Personal%20Data%20Potection%20Bill%2C%202022_0.pdf>

³⁹Mohanty P, "Draft Data Protection Bill: Free Pass to Breach Privacy" (Fortune India: Business News, Strategy, Finance and Corporate Insight November 24, 2022)

<<https://www.fortuneindia.com/amp/story/opinion%2Fdraft-data-protection-bill-free-pass-to-breach-privacy%2F110505>> accessed March 22, 2023

⁴⁰RightsExplainer Privacy D and others, "The Digital Personal Data Protection Bill, 2022 May Further Delay the Realisation of the Right to Dignity – the Leaflet" (The Leaflet – An independent platform for cutting-edge, progressive, legal, and political opinion. November 28, 2022) <<https://theleaflet.in/the-digital-personal-data-protection-bill-2022-may-further-delay-the-realisation-of-the-right-to-dignity/>> accessed March 22, 2023

⁴¹ Clause 25 of Bill,

2022<https://www.meity.gov.in/writereaddata/files/The%20Digital%20Personal%20Data%20Potection%20Bill%2C%202022_0.pdf>

⁴² "Key Features and Issues in the Digital Personal Data Protection Bill, 2022" (S.S. Rana & Co. March 9, 2023) <<https://ssrana.in/articles/key-features-issues-digital-personal-data-protection-bill-2022/>> accessed March 22, 2023

absolutely weakens the transparency.⁴³ One of the exceptions is where citizens may be denied the information outlined in Section 8(1)(j) of the RTI Act. It states that the words any information relating to personal information, the disclosure of which is not related to any public activity or interest, or which would cause an unwarranted invasion of the individual's privacy, shall be omitted unless the Central or the State Public Information Officer, or the appellate authority, as applicable, is satisfied that the disclosure of such information is in the greater public interest shall be omitted along with the further proviso that no person shall be denied any information that cannot be denied to the Parliament or a State Legislature.

CONCLUSION

The Bill of 2022 is a fair attempt by the parliament to come up with a practically viable regulation that can potentially meet the present need of regulating data privacy and data protection and at the same time protects the fair processing of personal data by the data fiduciaries. However, undeniably, India has a long way to go in testing the true efficiency and impact of this current legislation and figuring out what will work best for a country like ours. More comprehensive legislation is expected as the reviewed version of this Bill, 2022 which shall address all the gaps and concerns flagged by the experts. It is hoped that India will soon experience a new era of information security and privacy frameworks that all stakeholders will endorse, embrace, and put into practice.

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⁴³ Kapgate SJ& C, "The Digital Data Protection Bill, 2022 and the Concerns Associated" (Live Law December 14, 2022) <<https://www.livelaw.in/columns/digital-data-protection-bill-personal-data-protection-bill-pdp-bill-ministry-of-electronics-and-information-technology-rti-act-216722>> accessed March 22, 2023