

Draft Personal Data Protection Bill, 2019

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In News

- Facebook India's policy head appeared before the 30-member Joint Committee of Parliament which is examining the draft Personal Data Protection Bill, 2019.

Personal Data Protection Bill, 2019

- It is commonly referred to as the Privacy Bill.
- It intends to protect individual rights by regulating the collection, movement, and processing of data that is personal, or which can identify the individual.
- In December 2019, Parliament approved sending it to the joint committee.
- The Bill gives the government powers to authorise the transfer of certain types of personal data overseas.
- It has also given exceptions allowing government agencies to collect personal data of citizens.
- The Bill divides the data into three categories:
 - Personal Data: Data from which an individual can be identified like name, address, etc.
 - Sensitive Personal Data: Personal data like financial, health-related, sexual orientation, biometric, caste, religious belief, etc.;
 - Critical Personal Data: Anything that the government at any time can deem critical, such as military or national security data.
- It removes the requirement of data mirroring in case of personal data.

- Only individual consent for data transfer abroad is required.
- The Bill requires companies and social media intermediaries to enable users in India to voluntarily verify their accounts.

Other Key provisions:

- **Data principal:** As per the bill, it is the individual whose data is being stored and processed.
- **Exemptions:** The government is qualified to order any data fiduciary to acquire personal and non-personal/anonymised data for the sake of research and for national security and criminal investigations.
- **Social media companies**, which are deemed significant data fiduciaries based on factors such as volume and sensitivity of data as well as their turnover, should develop their own user verification mechanism.
- **An independent regulator Data Protection Agency (DPA)** will oversee assessments and audits and definition making.
- **Each company will have a Data Protection Officer (DPO)** who will liaison with the DPA for auditing, grievance redressal, recording maintenance and more.
- The bill also grants individuals the right to data portability, and the ability to access and transfer one's own data.
- **The right to be forgotten:** this right allows an individual to remove consent for data collection and disclosure.

Personal Data Protection Bill – Impact on Organisations

- **Private organisations** will have a lot to do, from making technical changes in engineering architecture to modifying business processes. At the core, they need to place limits on data collection, processing and storage, but there's a lot more.

- **Technical security safeguards, including de-identification**—preventing an individual’s identity to be inadvertently revealed—and encryption needs to be built-in. Any instance of data breach needs to be reported to the regulator.
- **Larger organizations**—depending on the volume of data, annual turnover and other factors—and social media companies with users above a defined threshold will have additional responsibilities. This includes conducting data protection impact assessments for specific tasks defined by the regulator, periodic security audits and appointing a data protection officer. Additionally, social media platforms would be required to enable users to voluntarily verify their accounts, similar to the “blue tick” on Twitter.