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STANDING COMMITTEE ON
COMMUNICATIONS AND INFORMATION TECHNOLOGY
(2023-24)

SEVENTEENTH LOK SABHA

MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY

[Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Forty-eighth Report (Seventeenth Lok Sabha) on 'Citizens' Data Security and Privacy']

FIFTY-FIFTH REPORT

LOK SABHA SECRETARIAT
NEW DELHI

February 2024/ Magha 1945 (Saka)

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Presented to Lok Sabha on 08.02.2024

Laid in Rajya Sabha on 08.02.2024

LOK SABHA SECRETARIAT
NEW DELHI

February, 2024/Magha,1945 (Saka)

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20. **VACANT***
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Secretariat

1.	Shri Satpal Gulati	-	Additional Secretary
2.	Smt. A. Jyothirmayi	-	Director
3.	Shri Nishant Mehra	-	Deputy Secretary

Committee constituted w.e.f. 13th September, 2023 *vide* Para No.7371 of Bulletin Part-II dated 16th September, 2023.

* Col. Rajyavardhan Singh Rathore resigned from Lok Sabha w.e.f. 06th December, 2023.

** Smt. Mahua Moitra ceased to be a Member of the Lok Sabha w.e.f. 08th December, 2023.

INTRODUCTION

I, the Chairperson, Standing Committee on Communications and Information Technology (2023-24), having been authorised by the Committee, present this Fifty-Fifth Report on Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Forty-eighth Report (Seventeenth Lok Sabha) on 'Citizens Data Security and Privacy' of the Ministry of Electronics and Information Technology.

2. The Forty-eighth Report was presented to Lok Sabha and also laid on the Table of Rajya Sabha on 1st August, 2023. The Ministry of Electronics and Information Technology furnished their Action Taken Notes on the Observations/Recommendations contained in the Forty-eighth Report on 19th December, 2023.

3. The Report was considered and adopted by the Committee at their Sitting held on 6th February, 2024.

4. For facility of reference and convenience, Observations/Recommendations of the Committee have been printed in bold in Chapter-I of the Report.

5. An analysis of Action Taken by the Government on the Observations/Recommendations contained in the Forty-eighth Report of the Committee is given at Annexure-II.

New Delhi;
6 February, 2024
17 Magha, 1945 (Saka)

PRATAPRAO JADHAV,
Chairperson,
Standing Committee on
Communications and Information Technology.

CHAPTER I

REPORT

This Report of the Standing Committee on Communications and Information Technology deals with the action taken by the Government on the Observations/Recommendations of the Committee contained in their Forty-Eighth Report (Seventeenth Lok Sabha) on the 'Citizen's Data Security and Privacy' relating to the Ministry of Electronics and Information Technology.

2. The Forty-Eighth Report was presented to Lok Sabha/laid in Rajya Sabha on 1st August, 2023. It contained 15 Observations/Recommendations.

3. Action Taken Notes in respect of all the Observations/Recommendations contained in the Report have been received from the Ministry of Electronics and Information Technology and are categorized as under:

(i) Observations/Recommendations which have been accepted by the Government

Rec. Sl. Nos.: 1,2,4,5,6,13 and 15.

Total - 07

Chapter-II

(ii) Observations/Recommendations which the Committee do not desire to pursue in view of the replies of the Government

Rec. Sl. No.: 9.

Total - 01

Chapter-III

(iii) Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee and require reiteration

Rec. Sl. Nos.: 7, 8, 10, 11, 14.

Total - 05

Chapter-IV

(iv) Observations/Recommendations in respect of which the replies of the Government are of interim in nature

Rec. Sl. Nos.: 3 and12.

Total -02

Chapter-V

4. **The Committee trust that utmost importance would be given to implementation of the Observations/Recommendations accepted by the Government. The Committee further desire that Action Taken Statement on the Observations/Recommendations contained in Chapter-I and final action taken replies to the Observations/Recommendations contained in Chapter-V of this Report be furnished to them at an early date.**

5. The Committee will now deal with action taken by the Government on some of their Observations/Recommendations.

(Recommendation Sl. No. 3)

Inclusive and Comprehensive Consultation Journey for Comprehensive Solutions:

6. The Committee, in their Original Report, had recommended as under:

> "The Committee have been informed that Ministry has undergone a thorough and comprehensive process of consultation thereby ensuring comprehensive input from various stakeholders while drafting the Bill to safeguard citizen's data and privacy. The Committee observe that the Ministry had invited public comments on the draft Bill in 2022. Further, inter-Ministerial consultations were initiated to

gather feedback on the Bill. The Committee were informed that along with the people's feedback, the Ministry also received feedback from 45 Ministries/Departments, a total of 21666 comments were received from various stakeholders. Subsequently, the Parliamentary Standing Committee were briefed on the intricacies of the subject 'citizen's data security and privacy' in December, 2022 and June, 2023. The Committee are pleased to learn that the concerns raised during these meetings, regarding the "rulemaking" powers of the Central Government, compensation from data fiduciaries, duties on data principals, and the establishment of a grievance redressal system for data principals, etc., have been suitably incorporated in the Draft Bill. The Committee exhort and recommend that the Ministry will not be complacent and will actively pursue necessary improvements to the legislation to effectively adapt to the ever-evolving and dynamic nature of digital technologies whenever the need arises".

7. The Ministry of Electronics and Information Technology, in the Action Taken Note, have stated as under:

"Yes, this Ministry aims to actively pursue necessary improvements to the legislation to effectively adapt to the ever-evolving and dynamic nature of digital technologies whenever the need arises.

The DPDP Act, 2023 has been prepared keeping in view the dynamic and fast-changing nature of the Digital technologies. The usage and the threat landscape of Digital technologies evolves at very high pace where dynamic decision making and changes in the processes of operations and subsequent harm and its mitigation are desired to counter the ever-evolving threat landscape. Owing to the explained dynamicity, to address the public concerns as the challenges evolve and to provide sufficient adaptability, the act provides for rule-making power to the Central government. The Rules made are to be laid in the Parliament subsequently for the approval. These Rule making powers are more of routine in nature and are provisioned to make implementation of the act practical and feasible in long run".

8. **The Committee noted in its Original Report a thorough and comprehensive process of consultation that was undertaken while drafting the Bill to safeguard citizen's data and privacy. Recognizing the pivotal role of rulemaking in successful implementation of provisions any Act, the Committee, recommended the Ministry, not to be complacent and actively pursue necessary improvements to the legislation to effectively adapt to the ever evolving and dynamic nature of digital technologies. Upon**

reviewing the action taken notes submitted by the Ministry, the Committee are satisfied to note that the Ministry has in-principle agreed to the recommendation of the Committee and aims to actively pursue necessary improvements to the legislation to effectively adapt to the constantly changing and dynamic landscape of digital technologies. The Committee reiterate their earlier recommendation and caution the Ministry to remain vigilant and responsive to the continually evolving digital landscape while formulating rules under the Digital Personal Data Protection Act, 2023. The Committee emphasise the need to maintain pace with the advancements and intricacies of the digital realm to ensure the effectiveness and relevance of the regulatory framework. The Committee, further, urge the Ministry to draw up simple rules under the law, which are easy to understand and administer. The Committee trust that the recommendation shall be complied with, effectively.

(Recommendation Sl. No. 7)

9. The Committee, in their Original Report, had recommended as under:

"The Committee note that as of today, to protect personal data of users, the Central Government, in exercise of its powers under the Information Technology Act, 2000, has prescribed reasonable security practices and procedures for sensitive personal data or information through the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011. While these rules impose obligations on data collectors and processors to ensure reasonable security practices, the Committee recognize the need for a more comprehensive framework that delineate the rights and responsibilities of individuals whose digital personal data is involved, as well as the obligations of entities determining the purpose and methods of data processing. In order to strengthen personal data protection laws, the Government has developed and published a comprehensive legal framework known as the draft Digital Personal Data Protection Bill, 2022. Further, due to the outdated nature of the Information Technology Act, enacted in 2000, the need for its substitution with the Digital India Act has become imminent. The Ministry is actively working on the Bill, which is expected to be rolled out in the near future. Recognizing the pressing need to fortify personal data protection laws, the introduction and subsequent implementation of the Digital India Bill becomes an

imperative step forward. The Committee, therefore, strongly urge the Ministry to promptly finalize the framework of the Digital India Bill and expedite its enactment without any undue delay".

10. The Ministry of Electronics and Information Technology, in the Action Taken Note, have stated as under:

"The suggestion has been noted".

11. **In their Original Report, the Committee had expressed apprehension about the outdated Information Technology Act of 2000, which is now 24 years old. It had emphasized that there is an urgent need for replacing it with the Digital India Act. The Committee, therefore, urged the Ministry to promptly conclude the framework for the Digital India Bill and expedite its enactment without unnecessary delays. Upon reviewing the action taken notes of the Ministry the Committee observe the lack of specified timeline for rolling out the Digital India Bill. There is no indication of the Government introducing the Act in the upcoming Session of Parliament. Consequently, the Ministry has ample time to release the draft bill for public consultation before its presentation in Parliament. The Committee, reiterating their earlier recommendation strongly urge the Ministry to promptly finalize the draft of the Digital India (DIA) Bill without any further delay. The earliest action in this regard would be appreciated.**

(Recommendation Sl. No. 8)

12. The Committee, in their Original Report, had recommended as under:

"During the evidence the Committee were informed that the enactment of the Digital Personal Data Protection Bill necessitates amendments to certain provisions of the Information Technology Act, including Section 43A, Section 81, and Section 87. Even power of disclosure under Right to Information Act, which exempts from disclosure of personal information but empowers PIO/ Appellate Authority to disclose despite exemption has to be removed. The Committee urges the Ministry to proactively revisit the provisions of the Information Technology Act to ensure their congruence with the Constitutional spirit. The Committee further emphasize the need for bringing out subsequent amendments to other relevant acts, particularly the Information Technology Act, to complement the provisions outlined in the DPDP Bill".

13. The Ministry of Electronics and Information Technology, in the Action Taken Note, have stated as under:

"To align subsequent amendments with other relevant acts, especially the Information Technology Act, and to complement the provisions outlined in the DPDP Act, specific amendments to the Information Technology Act, 2000, will be enacted as follows:

(a) The removal of section 43A.

(b) In section 81, the inclusion of the phrase "or the Digital Personal Data Protection Act, 2023" after the words "the Patents Act, 1970" in the proviso.

(c) In section 87, the omission of sub-section (2), clause (ob).

These proposed amendments aim to ensure harmonization and coherence between existing legislation and the new DPDP Act, enabling a comprehensive and effective legal framework for personal data protection.

The suggestion has been noted".

14. **The Committee, in their Original Report, urged the Ministry to proactively revisit the provisions of the Information Technology Act to ensure their congruence with the Constitutional spirit and further emphasized the need for bringing out subsequent amendments to other relevant Acts, particularly the Information Technology Act, to complement the provisions outlined in the Digital Personal Data Protection Bill. Upon reviewing the action taken notes furnished by the Ministry, the Committee find that the Ministry has noted the recommendation of the Committee and is likely to roll-out specific amendments to the Information Technology Act, 2000, to ensure coherence between existing legislation and the new Digital Personal Data Protection Act, 2023, and thereby enabling a comprehensive and effective legal framework for personal data protection. While appreciating these initiatives, the Committee expect the Ministry to expedite enactment of the amendments and the Committee may be apprised of the progress made in this matter.**

(Recommendation Sl. No.10)

<u>Enhancing Citizen Awareness and Safeguarding Digital Personal Data:</u>

15. The Committee, in their Original Report, had recommended as under:

"The Committee have been apprised during the deliberations that the Draft legislation to safeguard citizen's data security and privacy is slated to be introduced in the Parliament not only enhances the ease of doing business and ease of living but also enables speedier adjudication by providing for alternate dispute resolution and acceptance of voluntary undertakings by the adjudicatory body in an accountable manner. Further, any individual experiencing harm due to a civil wrong can seek compensation through torts law. This includes cases where a Data Fiduciary violates rights or fails to fulfill obligations. The affected person can bring a claim in a civil court and cite penalties imposed by the Board in support of his/her claim. The Committee strongly believe that ensuring public awareness on the mechanisms for alternative dispute resolution and remedies available in Civil Court is vital to protect citizens' interests. While acknowledging the provisions empowering individuals to exercise their rights over personal data, the Committee urge the Ministry to collaborate with State/UT Governments in organizing impactful awareness campaigns. These campaigns should educate the public about alternative remedies in cases of harm caused by civil wrongs violating their rights. Additionally, there is a need to counsel and inform individuals about the option of Alternate Dispute Resolution through mediators. The Committee also suggest the establishment of a helpline number or online AI-based chatbot to provide guidance to affected individuals".

16. The Ministry of Electronics and Information Technology, in the Action Taken Note, have stated as under:

"(i). CERT-In regularly disseminates information and shares security tips on cyber safety and security through its official social media handles and websites. CERT-In organised various events and activities for citizens during Safer Internet Day on 7 February 2023 and Cyber Security Awareness Month in October 2023 by posting security tips using posters and videos on social media platforms and websites. CERT-In, in association with C-DAC, conducted an online awareness campaign for citizens, covering topics such as general online safety, social media risks and safety, mobile related frauds and safety, secure digital payment practices etc. through videos and quizzes on MyGov platform.

(ii) CERT-In and the Reserve Bank of India jointly carry out a cyber security awareness campaign on 'beware and be aware of financial frauds' through the Digital IndiaPlatform.

(iii) The Ministry of Electronics and Information Technology conducts programmes to generate information security awareness. Specific books, videos and online materials are developed for children, parents and general users about

information security, which are disseminated through portals such as www.infosecawareness.in and www.csk.gov.in.

(iv). The G20-Stay Safe Online (SSO) Campaign was launched by MeitY in December 2022 during India's G20 Presidency to raise awareness among citizens to stay safe in online world on the widespread use of social media platforms and rapid adoption of digital payments. The target group of users are Children/ Students, Women, Sr. Citizens, Teachers/ Faculty, General Public, Specially-abled and Government officials. The campaign has been actively promoted by States, UTs, Google, META, CSC, DSCI, CSI, Paytm, NIC etc. from their respective social media handles. Awareness materials are disseminated through the https://www.staysafeonline.in/ website & social media handles, States, UTs and academic institutions, quizzes, Emails, SMSs, etc".

17. **The Committee, in their Original Report had noted that ensuring public awareness on the mechanisms for Alternative Dispute Resolution (ADR) and remedies available in Civil Court is vital to protect citizens' interests. The Committee had, therefore, urged the Ministry to collaborate with State/UT Governments in organizing impactful awareness campaigns to educate the public about alternative remedies in cases of harm caused by civil wrongs violating their rights. The Committee had also suggested for establishment of a helpline number or online AI-based chatbot to provide guidance to affected individuals. Upon perusal of the action taken notes furnished by the Ministry, the Committee note that a number of initiatives have been taken by the various agencies in this regard. The Ministry has submitted that CERT-In regularly disseminates information and shares security tips on cyber safety and security through its official social media handles and websites, CERT-In, in association with C-DAC, conducted an online awareness campaign for citizens, CERT-In and the Reserve Bank of India jointly carry out a cyber security awareness campaign on 'beware and be aware of financial frauds' through the Digital India Platform. The Ministry also conducts programmes to generate information security awareness, which are disseminated through portals such as www.infosecawareness.in and www.csk.gov.in, etc. While appreciating these initiatives, the Committee are constrained to point out that the Ministry has not indicated anything on awareness campaigns to educate the public about alternative remedies in cases of harm caused by civil wrongs violating their rights and establishment of a helpline number or online AI-based chatbot to provide guidance to affected individuals especially post enactment of DPDP Act, 2023. The Committee, call upon the**

Ministry to look into the feasibility to implement the recommendation and hope that the Ministry will make sincere effort in this regard.

(Recommendation Sl. No.11)

18. The Committee, in their Original Report, had recommended as under:

"The Committee have been informed during the deliberation that draft Bill has a provision for robust consent mechanism and notice requirements regarding the usage of personal data. It emphasizes the importance of providing consent and notice in languages specified in the Eighth Schedule to the Constitution to ensure clarity and comprehension. It includes provisions that allow for the establishment of prescribed methods for obtaining consent and delivering notices. It also provides for Data Principals to have the right to withdraw their consent at any time. The Committee are pleased that it recognizes the need for the consent framework to adapt and improve over time for the processing of personal data. Therefore, the Committee urge the Ministry to ensure that the default consent settings are designed to extend benefits to data principals, especially digitally illiterate individuals. The Committee, further urge the Ministry to incorporate visual elements for consent and notice, promoting easier understanding, accessibility, and inclusive digital access while defining the prescribed methods for obtaining consent and delivering notices".

19. The Ministry of Electronics and Information Technology, in the Action Taken Note, have stated as under:
"The Ministry is taking steps to ensure that default consent settings are tailored to benefit data principals, including digitally illiterate individuals. The Ministry's objective is to empower all data principals by making default settings easily accessible and understandable. The suggestion has been noted further".

20. **The Committee, in their Original Report, had inter alia recommended the Ministry to take necessary action to ensure that the default consent settings are designed to extend benefits to data principals, especially digitally illiterate individuals. Upon reviewing the action taken notes, the Committee note that the Ministry has not furnished any reply on the present status and merely stated that it is taking steps to ensure that default consent settings are tailored to benefit data principals, including digitally illiterate individuals. A concrete action by the Ministry in this regard may be taken at the earliest and the Committee may be apprised of the same.**

(Recommendation Sl. No.12)

21. The Committee, in their Original Report, had recommended as under:

"The Committee are pleased to note that the provision of the 'Deemed consent' clause, which was present in the draft Digital Personal Data Protection Bill, 2022 has been removed based on public consultation and feedback from stakeholders. The personal data can now only be processed for certain legitimate uses. These exemptions are limited to the State and its instrumentalities to perform functions under law or in the interest of sovereignty and integrity of India and security of the State, to provide or issue subsidies, benefits, services, certificates, licences and permits that are prescribed through rules, to comply with any judgement or order under law, to protect or assist or provide service in a medical or health emergency, disaster situation or maintain public order and in relation to an employee. While recognizing the right to privacy, the Supreme Court has also observed that privacy, like other fundamental rights, is not an absolute right. However, any law encroaching upon privacy must withstand the scrutiny of permissible restrictions on fundamental rights. Nevertheless, the Committee are of the view that there is still a possibility of these exceptions being misused. Therefore, the Committee strongly recommend the Ministry to devise a mechanism to ensure that these exceptions do not become the general rule and are used only in exceptional circumstances, with the aim of promoting ease of living and the digital economy".

22. The Ministry of Electronics and Information Technology, in the Action Taken Note, have stated as under:

"In the earlier DPDP Bill, 2022 draft the deemed Consent was applicable only when a data principal was deemed to have given consent for her personal data if such processing is necessary for the specific conditions only including public order, employment etc. The deemed consent clause has been henceforth removed after the consultation and feedback received from stakeholders. In the modified DPDP Act, 2023, in its equivalent format, the personal data can be processed for certain legitimate uses. These are as under:

1. For the State and its instrumentalities to perform functions under law or in the interest of sovereignty and integrity of India and security of the State

2. For the State and its instrumentalities to provide or issue subsidies, benefits, services, certificates, licences and permits that are prescribed through rules

3. To comply with any judgement or order under law

4. To protect or assist or provide service in a medical or health emergency, disaster situation or maintain public order and

5. In relation to an employee.

As suggested, the ministry is aware that these exceptions should not become the general rule and are used only in exceptional circumstances, with the aim of promoting ease of living and the digital economy".

23. **In their Original Report, the Committee highlighted that post enactment of the Digital Personal Data Protection Act, 2023 personal data could only be processed for specific legitimate uses. Notwithstanding that, the Committee had expressed concern regarding the potential misuse of these exceptions. Therefore, the Ministry was urged to establish a mechanism that prevents these exceptions from becoming the norm and ensure that they are employed only in exceptional situations. After examining the action taken notes provided by the Ministry, the Committee note that the Ministry is aware about its potential misuse of these exceptions. However, the Committee find that the Ministry has not outlined any specific in this regard. Reiterating their earlier recommendation, the Committee call upon the Ministry for an early action and apprise them about the same.**

(Recommendation Sl. No.14)

24. The Committee, in their Original Report, had recommended as under:

"The Committee note that the current draft of the Digital Personal Data Protection Bill, 2022 has been prepared with consideration for the dynamic nature of the subject matter. The threat landscape is constantly evolving at a rapid pace, requiring dynamic decision-making and the ability to adapt processes to counter these evolving threats. In order to address public concerns and provide sufficient adaptability, the draft Bill grants rule-making power to the Central government. The draft has been designed as technology agnostic legislation to accommodate the rapid evolution of digital technology, which has significant social and economic impacts. Therefore, the law governing digital technology should possess the necessary flexibility to address changing situations and emerging requirements. While the Bill outlines the rights and duties of Data Principals and the obligations of Data Fiduciaries, it aims to retain sufficient flexibility to address these evolving

needs. The Committee are of the opinion that delegations of power are common in legislation and serve to make implementation practical and feasible. The Committee firmly believe that no legislation can be perfect from the outset. It evolves over time and is fine-tuned in response to changing circumstances. The Committee, therefore, urge that the provisions that cannot be fully defined within the scope of the Bill can be addressed through rules prescribed under the Bill, which are subsequently presented to Parliament. The Committee appreciate the wise step of making space for subordinate legislation, as it allows necessary flexibility to address changing situations and emerging requirements. However, the Committee also wish to caution the Ministry about the judicious use of rule-making powers and emphasizes the importance of employing them responsibly and with utmost care".

25. The Ministry of Electronics and Information Technology, in the Action Taken Note, have stated as under:

"The DPDP Act, 2023 has been prepared keeping in view the dynamic and fast-changing nature of the Digital technologies. The usage and the threat landscape of Digital technologies evolves at very high pace where dynamic decision making and changes in the processes of operations and subsequent harm and its mitigation are desired to counter the ever-evolving threat landscape. Owing to the explained dynamicity, to address the public concerns as the challenges evolve and to provide sufficient adaptability, the Act provides for rule-making power to the Central government. The Rules made are to be laid in the Parliament subsequently for the approval. These Rule making powers are more of routine in nature and are provisioned to make implementation of the Act practical and feasible in long run".

26. **Taking into account, the dynamic and rapidly evolving landscape of digital technologies, the Committee, in their Original Report had observed that the provisions that cannot be fully defined within the scope of the Bill may be addressed through prescribed rules. The Committee also cautioned the Ministry on prudent exercise of rule-making powers and had emphasized the importance of employing them responsibly and with utmost care. Further, rules formulated should be subsequently presented to Parliament for scrutiny.**

However, upon examination of the action taken notes provided by the Ministry, the Committee note that the Ministry has merely outlined the established practice for rule-making without providing clarity on its expected finalization. The Committee would like to draw attention of the Ministry to the established norms, which provides that rules under an Act should be framed within six months of its commencement. The Committee expected that since

the data protection law was notified on August 11, 2023, the Rules in this regard should now be nearing completion. However, the Committee observe that the lack of properly framed rules has prevented the notification of essential components of the data privacy law, including the Data Privacy Board, which is mandated to investigate privacy breaches and impose penalties as outlined in the Act. Recognizing the pivotal role of Rules in the implementation of the Act practical and feasible, the Committee urge the Ministry to prioritize this matter, so as to ensure that drawing up of Rules is completed within the prescribed period of six months and avoid seeking an extension. The Committee may be informed of the efficacious steps taken by the Government in this regard.

CHAPTER II

OBSERVATIONS/RECOMMENDATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Introductory- Need For Dedicated Legislation on Data Privacy:

(Recommendation Sl. No. 1)

In recent years, personal data protection issues have gained significant attention in public discussions and debates. It has become evident that while the Internet and technology bring about positive connectivity, they also create an environment where user harm and misuse can thrive in the absence of appropriate rules and laws. To address these concerns, it is crucial for laws and regulations governing the Internet to be built upon foundational principles of openness, safety, trust, and accountability.

The Supreme Court, in the matter of Justice K. S. Puttaswamy (Retd.) and Anr. vs. Union of India and Ors., has recognized the right to privacy as an essential part of the fundamental rights guaranteed by the Constitution. The Court commended the Union Government to put into place a robust regime for data protection. This landmark judgment highlights the significance of protecting privacy in the digital age.

In light of the growing significance of protection of citizen's personal data and the need to strengthen data protection laws, the Government introduced the Personal Data Protection Bill, 2019, in the Parliament in December, 2019. After consideration, the Bill was referred to the Joint Committee of Parliament, which engaged in consultations and submitted a Report. Taking into account feedback from stakeholders and various agencies, the Bill was, however, withdrawn in August, 2022.

Subsequently, on November 18, 2022, the Government published a new draft Bill, titled the Digital Personal Data Protection Bill, 2022, and initiated public consultation on this. The Observations/Recommendations of the Committee are given under the subsequent paragraphs.

Reply of the Government

The observation is true and has been noted.

(Ministry of Electronics and Information Technology O.M. No.- 6(8)/2023-Parl. dated 04.01.2024)

The Cyber Conundrum- Addressing the Surge of Cyber Crimes And Urgent Call For Regulatory Action:

(Recommendation Sl. No. 2)

The Committee acknowledge that data in general and personal data in particular are at the core of this fast-growing digital economy and ecosystem of digital products, services and intermediation. In the post-pandemic world, this progress has been exemplified by the staggering number of e-transactions, with over 40 crore transactions occurring daily, and the immense volume of UPI transactions, totaling Rs. 12.8 trillion, on December, 2022. India's digital adoption has been remarkable, providing internet access to approximately 76 crore citizens. However, amidst this global digital transformation, the Committee recognize the dual nature of the digitization of personal data. While it has revolutionized service delivery and significantly improved the ease of living, it has also exposed individuals to mounting vulnerability due to the growing risk of personal data misuse. To address this concern, the Governments around the world have responded by enacting data protection laws to safeguard digitized personal data. The Committee are also conscious of the fact that in addition to the global impact, recent cyber-attacks on India's prestigious medical institution, have exposed the deficiencies to counter such attacks, in the absence of a comprehensive data protection law. The Committee firmly believe that in the absence of well-defined rights and obligations of individuals and entities responsible for data processing, the interests of stakeholders are not adequately safeguarded. The Committee are of the firm opinion that there is an urgent need to introduce a data protection law, that effectively combats the growing menace of cybercrime, ensures public order and also strengthens India's defense capabilities. Hence, the Committee emphasize the imperative need for enactment of an appropriate law to ensure comprehensive and robust safeguards for citizens' data security and privacy in an ever-evolving digital landscape.

Reply of the Government

DPDP Act has been enacted.

(Ministry of Electronics and Information Technology O.M. No.- 6(8)/2023-Parl. dated 04.01.2024)

(Recommendation Sl. No. 4)

The Committee have been informed that the Ministry is in a process of enacting a law with a purpose to establish a robust framework for the processing of digital personal data by striking a balance between safeguarding individuals' rights to protect their

personal data and facilitating lawful data processing activities. This draft legislative initiative draws inspiration from internationally recognized principles that underpin personal data protection laws in diverse jurisdictions. For instance; the principle that usage of personal data by organisations must be done in a lawful manner, which is fair and transparent to the Data Principals; the principle of purpose, i.e., the personal data be used only for the purpose for which it was collected; the principle of data minimisation, i.e., only those items of personal data be collected as are 38 required for attaining the specified purpose; the principle of accuracy of personal data, i.e., reasonable effort be made to ensure that the personal data is accurate and kept up to date; the principle of storage limitation, i.e., personal data not be stored perpetually by default and storage be limited to such duration as is necessary for the specified purpose; the principle that reasonable safeguards be taken to prevent personal data breach; the principle that the person who decides the purpose and means of processing of personal data should be accountable for such processing. The Committee firmly believe that the implementation of the a suitable legislation to safeguard citizen's data and privacy will be a much needed step in the domain of data processing, as it effectively brings the previously unregulated landscape under comprehensive regulation in a seamless and non-disruptive manner. In this regard, the Committee are of the considered view that enactment of such a law will herald a new era of enhanced data security and privacy protection, ensuring the safeguarding of personal information and fostering trust in the digital ecosystem.

Reply of the Government

In light of these privacy safeguards established by the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011, it becomes evident that there is a need for a more comprehensive framework to address the rights and responsibilities of individuals and data processors. The Central Government, in exercise of its powers under the Information Technology Act, 2000, has made the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011 ["SPDI Rules"], which contain privacy safeguards to protect personal data. Key safeguards include the following:

(i) A body corporate, or any person collecting, receiving, possessing, storing, dealing or handling information provided, is required to provide a policy for privacy and disclosure of personal information, including sensitive personal data or information, and to publish the same on its website.

(ii) Such a policy is required to provide for the practices or policies of such body corporate or person, type of personal or sensitive personal data or information collected,

purpose of its collection and usage, disclosure and reasonable security practices and procedures.

(iii) The body corporate or person is also required to use the information collected for the purpose for which it has been collected and to keep it secure.

(iv) Disclosure of sensitive personal data requires prior permission of the information provider, unless such disclosure has been contractually agreed to or is necessary under law.

(v) Publishing of sensitive personal data or information is barred.

(vi) Any third party receiving sensitive personal data or information on behalf of body corporate or other person shall not disclose it further.

Rule 6 of the SPDI Rules provides that sensitive personal data or information shall be shared, without obtaining prior consent from provider of information, with Government agencies mandated under the law to obtain information for the purpose of verification of identity, or for prevention, detection, investigation, prosecution and punishment of offences.

While these rules obligate persons collecting and processing data to ensure reasonable security practices and procedures, there is need to have a more detailed framework that provides for rights and duties of individuals to whom digital personal data relates and the obligations of persons who determine the purpose and means of processing of such personal data.

The framework in the enacted Digital Personal Data Protection Act, 2023 frames out the rights and duties of individuals to whom digital personal data relates ("Data Principals") and the obligations of persons who determine the purpose and means of processing of such personal data ("Data Fiduciaries"). It is based on the following principles, which have formed the basis for personal data protection laws in various other countries/jurisdictions:

(a) The principle that usage of personal data by organisations must be done in a lawful manner, which is fair and transparent to the Data Principals.

(b) The principle of purpose, i.e., the personal data be used only for the purpose for which it was collected.

(c) The principle of data minimisation, i.e., only those items of personal data be collected as are required for attaining the specified purpose.

(d) The principle of accuracy of personal data, i.e., reasonable effort be made to ensure that the personal data is accurate and kept up to date.

(e) The principle of storage limitation, i.e., personal data not be stored perpetually by default and storage be limited to such duration as is necessary for the specified purpose.

(f) The principle that reasonable safeguards be taken to prevent personal data breach.

(g) The principle that the person who decides the purpose and means of processing of personal data should be accountable for such processing.

(Ministry of Electronics and Information Technology O.M. No.- 6(8)/2023-Parl. dated 04.01.2024)

(Recommendation Sl. No. 5)

Regarding the proposed Digital Personal Data Protection Bill, published by the Ministry in November, 2022 the Committee has been apprised that its primary objective is to establish a comprehensive legal framework that governs the protection of digital personal data. The Bill addresses the previously unregulated realm of data processing in a manner that minimizes disruption for all stakeholders, including Data Principals, Data Fiduciaries, regulatory bodies, and both State and non-State entities. It ensures consistency with existing laws and serves as a horizontal legislation that applies to various entities, encompassing the State and its instrumentalities, and non-State actors alike. The Committee observe that the proposed Digital Personal Data Protection Bill incorporates a number of innovative features, viz., for the first time in any Central Act or Bill, women have been acknowledged by using the feminine pronoun “she” for a person. It also provides Data Principals the option of giving consent for personal data processing in any language enumerated in the Eighth Schedule to the Constitution. The Committee were apprised that while drafting, 39 it has been ensured that the rights and consent-based model approach is appropriately balanced. The Ministry informed that it offers a simpler law which is easy to understand and administer. The Committee appreciate that unlike the previous Bill i.e., Personal Data Protection Bill, 2019, the proposed Bill consciously follows an approach of providing for protection of personal data as a whole, without further classification, thereby avoiding issues of interpretation and classification-based protection. The Data Bill aims to strike the right balance between rights, commerce and innovation. In view of the above, the Committee have every reason to believe that enactment of a comprehensive law on citizen’s data security and privacy will have various tangible benefits such as enhancing data security measures, fortifying privacy protections, fostering greater transparency and accountability in data processing practices, empowering individuals with greater control over their personal information, and instilling public confidence in the digital ecosystem.

Reply of the Government

In aim to strike balance between right balance between rights, commerce and innovation the Act incorporates a number of innovative features, including the following:

(a) In line with Prime Minister's vision of drafting of laws in simple language, it attempts to set a new benchmark by employing simple language, avoiding provisos and cross-referencing and incorporating illustrations.

(b) For the first time in any Central Act or Bill, women have been acknowledged by using the feminine pronoun "she" for a person.

(c) It lays down obligations in terms of principles, avoiding prescriptive law-making, thereby enhancing Ease of Living and Ease of Doing Business while ensuring accountability.

(d) It gives Data Principals the option of giving consent for personal data processing in any language enumerated in the Eighth Schedule to the Constitution.

(e) The largely unregulated area of data processing is being brought under regulation in a non-disruptive manner for various stakeholders, including Data Principals, Data Fiduciaries, the State and its instrumentalities and regulatory bodies, while ensuring consistency with other laws.

(f) It provides for the first time the establishment of an adjudicatory body that will be a digital office, with the receipt of complaints and their allocation, hearing and pronouncement of decisions in respect of the same being digital by design.

(g) It enables speedier adjudication by providing for alternate dispute resolution and acceptance of voluntary undertakings by the adjudicatory body in an accountable manner.

(h) In place of multi-layered law consisting of the Act, rules, regulations and codes of practice, it provides for only the Act and the rules. The intent is to issue a single body of rules, to enable ease.

(i) Conferring of rights to citizens comes with responsibilities codified as duties.

(j) It enables India's innovation ecosystem by providing for lesser compliance burden for startups.

(k) It facilitates economic diplomacy by enabling processing of digital personal data outside India while retaining India's right to restrict the same in respect of notified countries/territories.

(Ministry of Electronics and Information Technology O.M. No.- 6(8)/2023-Parl. dated 04.01.2024)

Globally aligned - embracing international best practices:

(Recommendation Sl. No.6)

The Committee have been apprised that the Government has made all-out effort in formulating the Bill by taking into account best global practices observed in the personal data protection laws of Singapore, Australia, the European Union, and the prospective federal legislation of the United States of America. The Committee have been informed that the fundamental principles that underpin personal data protection laws in various jurisdictions, also form the basis of the Draft Digital Personal Data Protection Bill. These principles include the lawful, fair, and transparent usage of personal data by organizations, the principles of purpose, data minimization, accuracy, storage limitation, and the need for reasonable safeguards. It is encouraging to find the Ministry's submission that the Bill aligns with the data protection laws of other jurisdictions, featuring financial penalties instead of criminalization, imposing additional obligations on specific Data Fiduciaries (known as Significant Data Fiduciaries in the Bill), resembling the approach of the European Union and Singapore. The Bill also establishes supplementary obligations and safeguards 40 for the processing of personal data of children, following the model of the Singaporean data protection law. Further, provisions for cross-border data transfer, similar to those found in the European Union and Singapore, are also incorporated into the Bill. The Committee also appreciate the fact that by using the word "she" instead of "he", for the first time, women have been acknowledged in any Central Act or Bill. The Committee are hopeful that the Bill while absorbing international practices would exemplify the best of the knowhow to India and become a model legislation for the other countries to follow.

Reply of the Government

The Act has successfully integrated leading international practices, recognizing the significance of cross-border interactions in today's interconnected global landscape.

As per the DPDP Act, 2023 the Data Fiduciaries may transfer personal data outside India for processing, subject to restrictions imposed by the Central Government in respect of any notified country or territory which may be based on assessment of relevant factors.

Data Fiduciaries will also have to practice with higher protection or restriction on data transfer as governed by other domestic laws.

Furthermore, the Act introduces innovative elements, such as the pioneering use of the feminine pronoun "she" for individuals, marking the first instance of such inclusivity in any Central Act or Bill.

(Ministry of Electronics and Information Technology O.M. No.- 6(8)/2023-Parl. dated 04.01.2024)

(Recommendation Sl. No.13)

The Committee note that a person who suffers a civil wrong on account of violation of her rights or non-compliance of obligations by a Data Fiduciary may raise such a claim before a civil court in consequence of such wrong. Such a person could also cite any penalty imposed by the Board for non-compliance as material in support of his/her claim. Further, as part of the deterrent mechanism, the Significant Data Fiduciary (SDF) in addition to the general obligations, will have to meet additional obligations like appointing India based data protection officer, conducting data protection impact assessment and data audit. In addition to these obligations, to make Data Fiduciaries accountable for the data processing, there are provision to impose financial penalty by data protection board in case of personal data breach by data fiduciaries after due inquiry under the principle of natural justice. The Bill entrusts entities to take reasonable security safeguards to prevent personal data breach with respect to the personal data in its possession making them accountable to the individuals. Further, if the Data Protection Board determines on conclusion of an inquiry that breach of the provisions of this Act or the rules by the entity is significant, it may, after giving the person an opportunity of being heard, impose monetary penalty. Also, the Central Government may, on the request of Board that intimates the imposition of monetary penalty on the entity in more than two instances and advises in the interests of the general public, instruct the appropriate agencies/intermediary to block the services of the entity. The Committee note that like the data protection laws in the other mentioned jurisdictions, the Bill does not make any provision for any criminal liability, the liabilities envisaged are civil in nature. Although, criminal liability under certain sections of IPC like 405 may also be invoked in the case of data theft. The Committee are of the view that the criminal liability available under IPC may also be informed to the Public at large which would have a deterrent effect and firefighting at a later stage would be avoided. Further, the Committee assert and recommend that publicising the same would discourage data theft.

Reply of the Government

The DPDP Act does not provision any criminal liability, the liabilities envisaged are civil in nature. However, provisions of existing laws will continue to be remain

applicable as this law is not derogation of any other law of time being in force. The suggestion has been noted.

(Ministry of Electronics and Information Technology O.M. No.- 6(8)/2023-Parl. dated 04.01.2024)

(Recommendation Sl. No.15)

Conclusion:

In summation, the Committee, in no uncertain words stress the urgent necessity for the early enactment of a robust and all-encompassing legislation that effectively safeguards citizens' data and privacy. As the digital landscape continues to evolve rapidly, such legislation would serve as a crucial protective measure, ensuring the secure and responsible handling of personal information while instilling public confidence in the digital ecosystem. Delaying the implementation of such a comprehensive framework could potentially expose individuals to various risks and compromise the privacy rights of citizens. Hence, the Committee strongly advocate for the immediate action of enacting this crucial legislation to protect the interests and rights of citizens in the digital age. The Committee emphasize that the Observations and Recommendations put forth in this Report should be duly considered in the process.

Reply of the Government

Digital India has results in the digitalization of the Indian economy and transformed the lives of Indian citizens in particular and in governance in general. The digitalization has also increased chances of user harms. In the framework of global standard cyber laws along with the vision of a future of technological opportunities in safe and trusted manner, the Digital Personal Data Protection Act, 2023 (DPDP Act) was enacted on 11th August 2023.

(Ministry of Electronics and Information Technology O.M. No.- 6(8)/2023-Parl. dated 04.01.2024)

CHAPTER- III

OBSERVATIONS/RECOMMENDATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES OF THE GOVERNMENT

Ensuring robust safeguards for inclusive digital access through citizens' awareness:

(Recommendation Sl. No. 9)

The Committee note that the safeguards proposed for processing of personal data of children include processing only with parental consent and not undertaking processing detrimental to children's well-being or involving tracking, behavioural monitoring or targeted advertising. However, to enable use in cases like protection of abandoned children, etc. The Committee have been apprised that the Ministry has made essential revisions to the draft, taking into account public feedback regarding the consideration of a child's maturity when determining the age of consent. Government may notify purposes where processing may be allowed without parental consent or with tracking, etc. The Committee further note that the Bill includes provisions that enable the establishment of prescribed methods for obtaining consent and delivering notices. As the Bill progresses, the consent and notice mechanisms may even incorporate visual elements, allowing for easier understanding and accessibility. The Committee urge the Ministry to incorporate these enabling provisions, so as to extend its benefits to digitally illiterate individuals, ensuring their inclusion in the evolving landscape of data privacy and protection. The Committee are aware of the "Pradhan Mantri Gramin Digital Saksharta Abhiyan (PMGDISHA)" scheme that aims to usher in digital literacy in 42 rural India by covering 6 crore rural households (one person per household). To ensure equitable geographical reach, each of the 2,50,000 Gram Panchayats across the country are registering an average of 200-300 candidates. Special focus of the said Scheme is on training the beneficiaries on use of Electronic Payment System. As on 31st October, 2022, a total of 6.51 crore beneficiaries have been enrolled, out of which training has been imparted to 5.59 crore beneficiaries, out of this more than 4.15 crore beneficiaries have been certified under the PMGDISHA Scheme. The Committee recognize that the Scheme aims to bridge the digital divide, specifically targeting the rural population including the marginalised sections of society and is complementary to the Digital Personal Data Protection Bill which aims at inclusive governance. The Committee therefore exhort the Ministry to put in all efforts in accelerating the progress of digital literacy while simultaneously aiming at a digitally safe cyber ecosystem for the citizens.

Reply of the Government

As highlighted earlier, the Ministry is committed to accelerating the advancement of digital literacy while concurrently striving for a digitally secure cyber ecosystem for all citizens. This commitment extends to ensuring that consent and notification mechanisms are user-friendly and not limited by language barriers. By prioritizing user-friendliness and accessibility, the Ministry aims to empower individuals, regardless of their level of digital literacy, to fully exercise their data data protection rights within a safe and secure digital environment. This comprehensive approach seeks to promote both digital inclusion and data protection, fostering a more equitable and secure digital future for all.

(Ministry of Electronics and Information Technology O.M. No.- 6(8)/2023-Parl. dated 04.01.2024)

CHAPTER IV

OBSERVATIONS/RECOMMENDATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND REQUIRE REITERATION

(Recommendation Sl. No. 7)

The Committee, in their Original Report, had recommended as under:

"The Committee note that as of today, to protect personal data of users, the Central Government, in exercise of its powers under the Information Technology Act, 2000, has prescribed reasonable security practices and procedures for sensitive personal data or information through the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011. While these rules impose obligations on data collectors and processors to ensure reasonable security practices, the Committee recognize the need for a more comprehensive framework that delineate the rights and responsibilities of individuals whose digital personal data is involved, as well as the obligations of entities determining the purpose and methods of data processing. In order to strengthen personal data protection laws, the Government has developed and published a comprehensive legal framework known as the draft Digital Personal Data Protection Bill, 2022. Further, due to the outdated nature of the Information Technology Act, enacted in 2000, the need for its substitution with the Digital India Act has become imminent. The Ministry is actively working on the Bill, which is expected to be rolled out in the near future. Recognizing the pressing need to fortify personal data protection laws, the introduction and subsequent implementation of the Digital India Bill becomes an imperative step forward. The Committee, therefore, strongly urge the Ministry to promptly finalize the framework of the Digital India Bill and expedite its enactment without any undue delay".

The Ministry of Electronics and Information Technology, in the Action Taken Note, have stated as under:

"The suggestion has been noted".

(Ministry of Electronics and Information Technology O.M. No.- 6(8)/2023-Parl. dated 04.01.2024)

Comments of the Committee
(Please see Para No. 11 of Chapter I)

(Recommendation Sl. No. 8)

The Committee, in their Original Report, had recommended as under:

"During the evidence the Committee were informed that the enactment of the Digital Personal Data Protection Bill necessitates amendments to certain provisions of the Information Technology Act, including Section 43A, Section 81, and Section 87. Even power of disclosure under Right to Information Act, which exempts from disclosure of personal information but empowers PIO/ Appellate Authority to disclose despite exemption has to be removed. The Committee urges the Ministry to proactively revisit the provisions of the Information Technology Act to ensure their congruence with the Constitutional spirit. The Committee further emphasize the need for bringing out subsequent amendments to other relevant acts, particularly the Information Technology Act, to complement the provisions outlined in the DPDP Bill".

The Ministry of Electronics and Information Technology, in the Action Taken Note, have stated as under:
"To align subsequent amendments with other relevant acts, especially the Information Technology Act, and to complement the provisions outlined in the DPDP Act, specific amendments to the Information Technology Act, 2000, will be enacted as follows:
(a) The removal of section 43A.
(b) In section 81, the inclusion of the phrase "or the Digital Personal Data Protection Act, 2023" after the words "the Patents Act, 1970" in the proviso.
(c) In section 87, the omission of sub-section (2), clause (ob).
These proposed amendments aim to ensure harmonization and coherence between existing legislation and the new DPDP Act, enabling a comprehensive and effective legal framework for personal data protection.
The suggestion has been noted".

(Ministry of Electronics and Information Technology O.M. No.- 6(8)/2023-Parl. dated 04.01.2024)

Comments of the Committee
(Please see Para No. 14 of Chapter I)

(Recommendation Sl. No.10)

Enhancing Citizen Awareness and Safeguarding Digital Personal Data:

The Committee, in their Original Report, had recommended as under:

"The Committee have been apprised during the deliberations that the Draft legislation to safeguard citizen's data security and privacy is slated to be introduced in the Parliament not only enhances the ease of doing business and ease of living but also enables speedier adjudication by providing for alternate dispute resolution and acceptance of voluntary undertakings by the adjudicatory body in an accountable manner. Further, any individual experiencing harm due to a civil wrong can seek compensation through torts law. This includes cases where a Data Fiduciary violates rights or fails to fulfill obligations. The affected person can bring a claim in a civil court and cite penalties imposed by the Board in support of his/her claim. The Committee strongly believe that ensuring public awareness on the mechanisms for alternative dispute resolution and remedies available in Civil Court is vital to protect citizens' interests. While acknowledging the provisions empowering individuals to exercise their rights over personal data, the Committee urge the Ministry to collaborate with State/UT Governments in organizing impactful awareness campaigns. These campaigns should educate the public about alternative remedies in cases of harm caused by civil wrongs violating their rights. Additionally, there is a need to counsel and inform individuals about the option of Alternate Dispute Resolution through mediators. The Committee also suggest the establishment of a helpline number or online AI-based chatbot to provide guidance to affected individuals".

The Ministry of Electronics and Information Technology, in the Action Taken Note, have stated as under:

"(i). CERT-In regularly disseminates information and shares security tips on cyber safety and security through its official social media handles and websites. CERT-In organised various events and activities for citizens during Safer Internet Day on 7 February 2023 and Cyber Security Awareness Month in October 2023 by posting security tips using posters and videos on social media platforms and websites. CERT-In, in association with C-DAC, conducted an online awareness campaign for citizens, covering topics such as general online safety, social media risks and safety, mobile related frauds and safety, secure digital payment practices etc. through videos and quizzes on MyGov platform.

(ii) CERT-In and the Reserve Bank of India jointly carry out a cyber security awareness campaign on 'beware and be aware of financial frauds' through the Digital IndiaPlatform.

(iii) The Ministry of Electronics and Information Technology conducts programmes to generate information security awareness. Specific books, videos and online materials are developed for children, parents and general users about information security, which are disseminated through portals such as www.infosecawareness.in and www.csk.gov.in.

(iv). The G20-Stay Safe Online (SSO) Campaign was launched by MeitY in December 2022 during India's G20 Presidency to raise awareness among citizens to stay safe in online world on the widespread use of social media

platforms and rapid adoption of digital payments. The target group of users are Children/ Students, Women, Sr. Citizens, Teachers/ Faculty, General Public, Specially-abled and Government officials. The campaign has been actively promoted by States, UTs, Google, META, CSC, DSCI, CSI, Paytm, NIC etc. from their respective social media handles. Awareness materials are disseminated through the https://www.staysafeonline.in/ website & social media handles, States, UTs and academic institutions, quizzes, Emails, SMSs, etc".

(Ministry of Electronics and Information Technology O.M. No.- 6(8)/2023-Parl. dated 04.01.2024)

Comments of the Committee
(Please see Para No. 17 of Chapter I)

(Recommendation Sl. No.11)

The Committee, in their Original Report, had recommended as under:

"The Committee have been informed during the deliberation that draft Bill has a provision for robust consent mechanism and notice requirements regarding the usage of personal data. It emphasizes the importance of providing consent and notice in languages specified in the Eighth Schedule to the Constitution to ensure clarity and comprehension. It includes provisions that allow for the establishment of prescribed methods for obtaining consent and delivering notices. It also provides for Data Principals to have the right to withdraw their consent at any time.

The Committee are pleased that it recognizes the need for the consent framework to adapt and improve over time for the processing of personal data. Therefore, the Committee urge the Ministry to ensure that the default consent settings are designed to extend benefits to data principals, especially digitally illiterate individuals. The Committee, further urge the Ministry to incorporate visual elements for consent and notice, promoting easier understanding, accessibility, and inclusive digital access while defining the prescribed methods for obtaining consent and delivering notices".

The Ministry of Electronics and Information Technology, in the Action Taken Note, have stated as under:

"The Ministry is taking steps to ensure that default consent settings are tailored to benefit data principals, including digitally illiterate individuals. The Ministry's objective is to empower all data principals by making default settings easily accessible and understandable. The suggestion has been noted further".

(Ministry of Electronics and Information Technology O.M. No.- 6(8)/2023-Parl. dated 04.01.2024)

Comments of the Committee
(Please see Para No. 20 of Chapter I)

(Recommendation Sl. No.14)

The Committee, in their Original Report, had recommended as under:

"The Committee note that the current draft of the Digital Personal Data Protection Bill, 2022 has been prepared with consideration for the dynamic nature of the subject matter. The threat landscape is constantly evolving at a rapid pace, requiring dynamic decision-making and the ability to adapt processes to counter these evolving threats. In order to address public concerns and provide sufficient adaptability, the draft Bill grants rule-making power to the Central government. The draft has been designed as technology agnostic legislation to accommodate the rapid evolution of digital technology, which has significant social and economic impacts. Therefore, the law governing digital technology should possess the necessary flexibility to address changing situations and emerging requirements. While the Bill outlines the rights and duties of Data Principals and the obligations

of Data Fiduciaries, it aims to retain sufficient flexibility to address these evolving needs. The Committee are of the opinion that delegations of power are common in legislation and serve to make implementation practical and feasible. The Committee firmly believe that no legislation can be perfect from the outset. It evolves over time and is fine-tuned in response to changing circumstances. The Committee, therefore, urge that the provisions that cannot be fully defined within the scope of the Bill can be addressed through rules prescribed under the Bill, which are subsequently presented to Parliament. The Committee appreciate the wise step of making space for subordinate legislation, as it allows necessary flexibility to address changing situations and emerging requirements. However, the Committee also wish to caution the Ministry about the judicious use of rule-making powers and emphasizes the importance of employing them responsibly and with utmost care".

The Ministry of Electronics and Information Technology, in the Action Taken Note, have stated as under:

"The DPDP Act, 2023 has been prepared keeping in view the dynamic and fast-changing nature of the Digital technologies. The usage and the threat landscape of Digital technologies evolves at very high pace where dynamic decision making and changes in the processes of operations and subsequent harm and its mitigation are desired to counter the ever-evolving threat landscape. Owing to the explained dynamicity, to address the public concerns as the challenges evolve and to provide sufficient adaptability, the Act provides for rule-making power to the Central government. The Rules made are to be laid in the Parliament subsequently for the approval. These Rule making powers are more of routine in nature and are provisioned to make implementation of the Act practical and feasible in long run".

(Ministry of Electronics and Information Technology O.M. No.- 6(8)/2023-Parl. dated 04.01.2024)

Comments of the Committee
(Please see Para No. 26 of Chapter I)

CHAPTER V

OBSERVATIONS/RECOMMENDATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT ARE INTERIM IN NATURE

Inclusive and Comprehensive Consultation Journey for Comprehensive Solutions:

(Recommendation Sl. No. 3)

The Committee have been informed that Ministry has undergone a thorough and comprehensive process of consultation thereby ensuring comprehensive input from various stakeholders while drafting the Bill to safeguard citizen's data and privacy. The Committee observe that the Ministry had invited public comments on the draft Bill in 2022. Further, inter-ministerial consultations were initiated to gather feedback on the Bill. The Committee were informed that along with the people's feedback, the Ministry also received feedback from 45 Ministries/Departments, a total of 21666 comments were received from various stakeholders. Subsequently, the Parliamentary Standing Committee were briefed on the intricacies of the subject 'citizen's data security and privacy' in December, 2022 and June, 2023. The Committee are pleased to learn that the concerns raised during these meetings, regarding the "rulemaking" powers of the Central Government, compensation from data fiduciaries, duties on data principals, and the establishment of a grievance redressal system for data principals, etc., have been suitably incorporated in the Draft Bill. The Committee exhort and recommend that the Ministry will not be complacent and will actively pursue necessary improvements to the legislation to effectively adapt to the ever-evolving and dynamic nature of digital technologies whenever the need arises

Reply of the Government

Yes, this ministry aims to actively pursue necessary improvements to the legislation to effectively adapt to the ever-evolving and dynamic nature of digital technologies whenever the need arises.

The DPDP Act, 2023 has been prepared keeping in view the dynamic and fast-changing nature of the Digital technologies. The usage and the threat landscape of Digital technologies evolves at very high pace where dynamic decision making and changes in the processes of operations and subsequent harm and its mitigation are desired to counter the ever-evolving threat landscape. Owing to the explained dynamicity, to address the public concerns as the challenges evolve and to provide

sufficient adaptability, the act provides for rule-making power to the Central government. The Rules made are to be laid in the Parliament subsequently for the approval. These Rule making powers are more of routine in nature and are provisioned to make implementation of the act practical and feasible in long run.

The Committee expressed satisfaction in its Original Report regarding undertaking a thorough and comprehensive process of consultation, while drafting the Bill to safeguard citizen's data and privacy. Recognizing the pivotal role of rulemaking in successful implementation of provisions any Act, the Committee, recommended the Ministry, not to be complacent and actively pursue necessary improvements to the legislation to effectively adapt to the ever evolving and dynamic nature of digital technologies whenever the need arises. Upon reviewing the action taken notes submitted by the Ministry, the Committee are satisfied to note that the Ministry has accepted the Committee's recommendation aims to actively pursue necessary improvements to the legislation to effectively adapt to the ever evolving and dynamic nature of digital technologies whenever the need arises. Keeping in view the dynamic and fast-changing nature of digital technologies, the Committee reiterates its earlier recommendation and caution the Ministry to remain vigilant and responsive to the continually evolving digital landscape while formulating rules under the Digital Personal Data Protection Act, 2023. It is crucial to maintain pace with the advancements and intricacies of the digital realm to ensure the effectiveness and relevance of the regulatory framework. The Committee, further, urge the Ministry to draw up simple rules under the law, which are easy to understand and administer.

(Ministry of Electronics and Information Technology O.M. No.- 6(8)/2023-Parl. dated 04.01.2024)

Comments of the Committee
(Please see Para No. 8 of Chapter I)

(Recommendation Sl. No.12)

The Committee, in their Original Report, had recommended as under:

“The Committee are pleased to note that the provision of the 'Deemed consent' clause, which was present in the draft Digital Personal Data Protection Bill, 2022 has been removed based on public consultation and feedback from stakeholders. The personal data can now only be processed for certain legitimate uses. These

exemptions are limited to the State and its instrumentalities to perform functions under law or in the interest of sovereignty and integrity of India and security of the State, to provide or issue subsidies, benefits, services, certificates, licences and permits that are prescribed through rules, to comply with any judgement or order under law, to protect or assist or provide service in a medical or health emergency, disaster situation or maintain public order and in relation to an employee. While recognizing the right to privacy, the Supreme Court has also observed that privacy, like other fundamental rights, is not an absolute right. However, any law encroaching upon privacy must withstand the scrutiny of permissible restrictions on fundamental rights. Nevertheless, the Committee are of the view that there is still a possibility of these exceptions being misused. Therefore, the Committee strongly recommend the Ministry to devise a mechanism to ensure that these exceptions do not become the general rule and are used only in exceptional circumstances, with the aim of promoting ease of living and the digital economy”.

The Ministry of Electronics and Information Technology, in the Action Taken Note, have stated as under:

“In the earlier DPDP Bill, 2022 draft the deemed Consent was applicable only when a data principal was deemed to have given consent for her personal data if such processing is necessary for the specific conditions only including public order, employment etc. The deemed consent clause has been henceforth removed after the consultation and feedback received from stakeholders. In the modified DPDP Act, 2023, in its equivalent format, the personal data can be processed for certain legitimate uses. These are as under:

1. For the State and its instrumentalities to perform functions under law or in the interest of sovereignty and integrity of India and security of the State

2. For the State and its instrumentalities to provide or issue subsidies, benefits, services, certificates, licences and permits that are prescribed through rules

3. To comply with any judgement or order under law

4. To protect or assist or provide service in a medical or health emergency, disaster situation or maintain public order and

5. In relation to an employee.

As suggested, the ministry is aware that these exceptions should not become the general rule and are used only in exceptional circumstances, with the aim of promoting ease of living and the digital economy".

(Ministry of Electronics and Information Technology O.M. No.- 6(8)/2023-Parl. dated 04.01.2024)

Comments of the Committee
(Please see Para No. 23 of Chapter I)

New Delhi;
06 February,2024

17 Magha, 1945 (Saka)

PRATAPRAO JADHAV,

Chairperson,
Standing Committee on Communications and Information Technology.

Annexure-I

STANDING COMMITTEE ON COMMUNICATIONS AND INFORMATION TECHNOLOGY
(2023-24)
MINUTES OF THE FOURTH SITTING OF THE COMMITTEE

The Committee sat on Tuesday, the 6th Feb, 2024 from 1500 hours to 1535 hours in Main Committee Room, Parliament House Annexe, New Delhi.

PRESENT

Shri Prataprao Jadhav- Chairperson

MEMBERS

Lok Sabha

2. Shri Karti P. Chidambaram
3. Smt. Raksha Nikhil Khadse
4. Dr. Sukanta Majumdar
5. Shri Santosh Pandey
6. Shri Shatrughan Prasad Sinha
7. Dr. M.K. Vishnu Prasad

Rajya Sabha

8. Dr. Anil Aggarwal
9. Dr. John Brittas
10. Shri Jaggesh
11. Shri Jawahar Sircar
12. Shri Lahar Singh Siroya

SECRETARIAT

1.	Shri Satpal Gulati	-	Additional Secretary
2.	Smt. Jyothirmayi	-	Director
3.	Shri Nishant Mehra	-	Deputy Secretary

2. At the outset, the Chairperson welcomed the Members to the Sitting of the Committee convened to consider and adopt Reports relating to the Ministries/Departments under their jurisdiction.

3. The Committee, then, took up the following draft Reports for consideration and adoption:-

(i) xxxxxxxxxxxx.....xxxxxxxxxxxxxxxx.....xxxxxxxxxxxx

(ii) Draft Report on Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Forty-eighth Report (Seventeenth Lok Sabha) on 'Citizens' Data Security and Privacy' relating to the Ministry of Electronics and Information Technology

(iii) xxxxxxxxxxxx.....xxxxxxxxxxxxxxxx.....xxxxxxxxxxxx

(iv) xxxxxxxxxxxx.....xxxxxxxxxxxxxxxx.....xxxxxxxxxxxx

4. After due deliberations, the Committee adopted the Reports without any modifications. Two Members, namely, Dr. John Brittas, M.P. (Rajya Sabha) and Shri Karti Chidambaram, M. P. (Lok Sabha) expressed their dissent with the Draft Report on Action Taken by the Government on the Observations/Recommendations of the Committee contained in their Forty-eighth Report (Seventeenth Lok Sabha) on 'Citizens' Data Security and Privacy' relating to the Ministry of Electronics and Information Technology.

5. The Committee authorized the Chairperson to finalize the draft Reports and present the same to the House during the current Session of Parliament.

The Committee, then, adjourned.

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xxxxxxxx……xxxxxxxx…. **Matter not related**

Annexure-II

ANALYSIS OF ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATIONS/RECOMMENDATIONS CONTAINED IN THEIR FOURTY-EIGHTH REPORT (SEVENTEENTH LOK SABHA)

[Vide Paragraph No. 5 of Introduction]

(i) Observations/Recommendations which have been accepted by the Government

Rec. Sl. Nos.: 1,2,4,5,6,13 and 15

Total -07

Percentage 46.66

(ii) Observations/Recommendations which the Committee do not desire to pursue in view of the replies of the Government

Rec. Sl. No.: 9

Total - 01

Percentage 06.67

(iii) Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee and require reiteration

Rec. Sl. Nos.: 7,8,10,11 and 14

Total - 05

Percentage 33.33

(iv) Observations/Recommendations in respect of which the replies of the Government are of interim in nature

Rec. Sl. Nos.: 3 and 12

Total - 02

Percentage 13.33