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DATA PROTECTION: WHAT'S ON THE ANVIL?

The Justice B.N. Srikrishna committee on Friday submitted to the government a draft of the Personal Data Protection Bill, 2018. Following are the key highlights of the proposed law:

- ▶ The law will have jurisdiction over personal data that is used, shared, disclosed, collected, or otherwise, processed in India. 
- ▶ The law will not have retrospective application and will come into force in a structured and phased manner.
- ▶ It will cover personal data used by companies incorporated under Indian law, irrespective of the data being processed in India, or not. 
- ▶ The law will cover processing of personal data by both public and private entities.
- ▶ Sensitive personal data will include passwords, financial data, health data, sex life, sexual orientation, biometric and genetic data. 
- ▶ Such data also covers information that reveals transgender status, intersex status, caste, tribe, religious or political beliefs or affiliations of an individual.
- ▶ A regulator—Data Protection Authority of India (DPA)—will be set up for the effective implementation and enforcement of the law.
- ▶ The new regulator will have a chairperson and six whole-time members. 
- ▶ For consent from individuals to be valid, it should be free, informed, specific, clear and capable of being withdrawn. 
- ▶ For sensitive personal data, consent will have to be explicit.
- ▶ Individuals will have the right to access their personal data with entities, make corrections to it, and also restrict its usage.
- ▶ Penalties may be imposed for violating the data protection law. 
- ▶ Any person below the age of 18 years will be considered a child under the law.
- ▶ Entities processing data of children will have to develop appropriate mechanisms for age verification and get parental consent. 
- ▶ Data collecting entities will be responsible for data quality and storage limitation. However, accuracy of personal data is the responsibility of the individual.
- ▶ The committee has identified 50 statutes and regulations, which potentially overlap with the data protection framework.
- ▶ The Aadhaar Act needs to be amended to bolster data protection, and the committee has suggested amendments to the Act. 