



An Act to cement digital authoritarianism

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Why are critics concerned about the law?

Critics are concerned that this law **undermines transparency and accountability** instead of protecting citizens' data.

They say that the law seems to **facilitate data collection** by the government and private entities rather than safeguarding personal information.

They argue that the law was shaped by the government's desire for **more control**, influenced by the belief that **technology can solve all problems**. But this ideology gives rise to increased surveillance and control.

The state views data protection as being a nuisance to its digital programmes which is inherent in their architectural design.

Examples like the **Aarogya Setu app and the Smart Cities Mission** show how data privacy is overlooked in favor of technological expansion.

There are also more direct measures for surveillance, such as the plan for a **“social media communications hub” and a facial recognition system**. These projects can be given legal sanctity through exceptions in the Data Act.

Rather than protecting the ordinary citizen, the Act imposes **finances on marginalized groups** that might provide incomplete or incorrect information for their personal safety.

Will the Act improve over time?

It has been argued that with experience, the Data Act will improve over time. But this argument ignores the **decline in democratic qualities in a digital India**.

Recent laws in India have led to the creation of databases that have **authoritarian undertones**, storing personal and family information of citizens.

The **Criminal Procedure (Identification) Act, 2022, and the Registration of Births and Deaths (Amendment) Act, 2023**, both contribute to these databases.

All these legislative actions seem to align with a **broader pattern** that culminates in the Data Act, suggesting a move towards **greater state control over citizens' data and lives**.

Is the Data Act a “light touch regulation”?

Labeling the Data Act as “light touch regulation” would be inaccurate because it provides for **vast and vague ministerial discretion**.

The Union Government holds the power to exempt specific companies or even entire classes of companies from adhering to regulations.

Additionally, the government can initiate complaints against these companies on its own to the Data Protection Board of India, a body it both forms and oversees.

What will be the impact of the Data Act on the private sector?

The inspiration for the Data Act seems to be the **National Intelligence Law of China**, where the government can now demand any “such information as it may call for”.

This could lead to a scenario where **private companies consistently seek favor from government officials** for ambiguous compliance requirements.

This system may allow the **government to decide winners and losers** in India's digital market. This aligns with a trend of centralized state control.

These developments coincide with a **decline in global rankings for economic freedom** according to organizations like the Cato Institute's Human Freedom Index, the Heritage Foundation, and the Hudson Institute.

What should be the way forward?

The concerns raised echo a warning from the Supreme Court about the need for a strong data protection framework to ensure citizens' liberty and dignity.

India needs a more comprehensive solution to this digital authoritarianism, as the Data Act is just a symptom of a bigger problem.