

India's Committee of Experts Releases Draft Personal Data Protection Bill

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On July 27, 2018, the Government of India's Committee of Experts released a draft [Protection of Personal Data Bill](#). Together with an [accompanying report](#), the draft bill moves India one step closer towards enacting a comprehensive data protection regime.

Last year, the Supreme Court of India issued a landmark decision holding that privacy is a fundamental right under India's Constitution. [In that opinion](#), the Court invited the Government of India to formulate "a regime for data protection." As a result, the Government established the Committee of Experts "to study various issues relating to data protection in India, make specific suggestions on principles underlying a data protection bill and draft such a bill."

In November 2017, that Committee released a [White Paper](#) that outlined its views on data protection and solicited public comments. The draft bill incorporates those comments as well as the Committee's own analysis.

As the Committee's report explains, the draft bill outlines an approach to data protection that is "distinct from the approaches in the US, EU and China and represents a fourth path." That said, much of the content of the draft bill resembles the European Union's General Data Protection Regulation (GDPR).

If enacted, the 67-page bill would:

- Grant rights to data principals (the equivalent of "data subjects" in EU nomenclature), including the right to access, the right to portability, and the right to be forgotten;
- Require that certain organizations hire Data Protection Officers, perform Data Protection Impact Assessments, and notify regulators in the event of a data breach;
- Establish a Data Protection Authority ("DPA"), with the power to investigate, enjoin, and fine non-compliant entities;
- Mandate that organizations store copies of personal data in India ("data localization"), and;
- Provide for significant penalties, including fines of up to 4% of total worldwide turnover and criminal penalties for intentional, knowing, or reckless violations.

The Committee has submitted the draft bill to India's Ministry of Electronics and Information

Technology (“MeitY”), which will review the proposal and consider next steps.

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National Law Review, Volume VIII, Number 211

Source URL: <https://natlawreview.com/article/india-s-committee-experts-releases-draft-personal-data-protection-bill>