Data Protection Law Should Focus on Privacy

What is the issue?

- Artificial Intelligence is increasingly shaping a “Technology Centric Human Society” but we need to recognize that technology should be people centric.
- As many seek technological solution for even trivial issues, data protection legislation should be about protecting people and not innovation.

What are the concerns?

- The Justice Srikrishna committee has been mandated with the task of making recommendations for a drafting a data protection law.
- The committee is currently hearing the views of various stakeholders like “civil society group, academic experts, technologists, industry etc…”
- While the committee’s work looks promising, its recently published white paper talks about the twin case of “innovation for development” and “privacy concerns”.
- This gives out the opinion that the committee sees privacy as a hurdle to innovation, which isn’t in sync with its mandate of addressing privacy concerns.

What was the rationale of the privacy judgment?

- The liberty of the individual finds expression through concepts such as “autonomy, dignity, choice and freedom”, which is violated if his privacy is.
In the “Puttasamy case”, Supreme Court declared privacy as a fundamental right and called for a carefully structured regime for the protection of data.

This was based on the recognition that privacy violation is an intrusion upon the “personal liberties of citizens” and requires an obligation on the state to act.

The judgment’s singular conclusion was that “privacy protection laws” should shield individuals rather than commercial interests or technological innovation.

Some may argue that such a judgment might legally disrupt innovation, but contrarily, a strong law would actually enhance human centric innovation.

It would make big data subject to greater legality, the Internet of Things best suited to the Internet of people, and AI subject to natural rights.

To forge such an understanding, one needs to acknowledge that technology is a means for development and not an end in itself.

The right regulatory design is hence mandatory to prevent pure market mechanisms that concentrate power in a few individuals.

What is the way forward?

5 years ago, Justice A.P. Shah Committee proposed nine privacy principles based on a “fundamental philosophy” for data protection.

To operationalize these and account for “innovation” the Shah Committee also recommended, a technology neutral and generic “Privacy Act”

This was to ensure that the principles and enforcement mechanisms remain adaptable to “technological, social and political” changes in the society.

However, the recommendations were clearly acknowledged that data protection is about protecting individuals and not about protecting innovation.

To ignore these key points now would be a decisive blow to privacy, and
hence any new recommendation needs to build on the Shah committee’s views.

Source: The Hindu