# Exemption from Personal Data Protection (PDP) Law

## Why in News

The **Unique Identification Authority of India (UIDAI)** has **asked for exemption from the Personal Data Protection (PDP) Law (**Data Protection Bill 2019**).**

## Key Points

- **Privacy Law**: It is commonly referred to as the "**Privacy Bill**" and intends to **protect individual rights** by regulating the collection, movement, and processing of data that is personal, or which can identify the individual.

    - It derives its inspiration from a previous draft version prepared by a committee headed by retired **Justice B N Srikrishna.**
    - The Supreme Court in the **Puttaswamy judgement (2017)** held that the **right to privacy is a fundamental right.**
- **Provisions:**

    - The Bill gives the government powers to **authorise the transfer of certain types of personal data overseas** and has given exceptions **allowing government agencies to collect personal data of citizens.**
    - The Bill divides the data into three categories and mandates their storage depending upon the type.

        - **Personal Data**: Data from which an individual can be identified like name, address, etc.
        - **Sensitive Personal Data:** Some types of personal data like financial, health-related, sexual orientation, biometric, genetic, transgender status, caste, religious belief, and more.
        - **Critical Personal Data**: Anything that the government at any time can deem critical, such as military or national security data.
    - It mandates **data fiduciaries** to provide the government with any non-personal data when demanded.

        - **Data Fiduciary** may be a service provider who collects, stores and uses data in the course of providing such goods and services.
        - **Non-Personal Data** refers to anonymised data, such as traffic patterns or demographic data.
    - A **Data Protection Authority** has been envisaged for ensuring the compliance of the law.
    - It also mentions '**Right to be Forgotten.**' It states that the "data principal (the person to whom the data is related) shall have the right to restrict or prevent the continuing disclosure of his personal data by a data fiduciary".
- **Issues Involved:**

    - If Personal Data Protection (PDP) Law is implemented in the present form, it may create **two distinct ecosystems.**

- One with the **government agencies** who will be completely out of the ambit of the law, giving them complete freedom to deal with the personal data.
- The second will be **private data fiduciaries** who will have to deal with every letter in the law.
  - **Section 35**: It invokes "**sovereignty and integrity of India,**" "**public order**", "**friendly relations with foreign states**" and "**security of the state**" to give powers to the Central government to suspend all or any of the provisions of this Act for government agencies.
  - **Duplicity**: Section 12 of the Act gives UIDAI some leeway from the rigours of the Bill as it enables for processing data for provision of a service or benefit to the data principal. However, even then prior notice has to be given.

    - The UIDAI authority is already being governed by the **Aadhaar Act** and there cannot be **duplicity of laws.**
    - The **Supreme Court (SC) in 2018 struck down the national security exception under the Aadhaar Act.** It indirectly ensures greater privacy of an individual's Aadhaar data while restricting the government accessibility to it.
  - **Data Localization**

**Unique Identification Authority of India (UIDAI**)

- It is a **statutory authority** established on 12$^{th}$ July 2016 by the Government of India under the **jurisdiction of the Ministry of Electronics and Information Technology,** following the provisions of the **Aadhaar Act 2016.**
- The UIDAI is mandated to assign a **12-digit unique identification (UID) number (Aadhaar)** to all the residents of India.
- The UIDAI was initially set up by the Government of India in January 2009, as an attached office under the aegis of the Planning Commission.

**Source: TH**

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