

Can we follow India in redrawing our data protection law?



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FOLLOWING protests by the opposition parties, rights groups and businesses, the Indian government has withdrawn its proposed Data Protection Bill. The draft bill received 81 amendment suggestions at the joint parliamentary committee. Reports suggest that the government is now considering bringing in a fresh bill, taking into consideration all the suggestions that came through the parliamentary committee.

While the government in India has listened to the opposition, in Bangladesh, the government has brushed aside the civil society's concerns about a similar bill and published a third draft with further expansion of authoritative controls over personal data and privacy.

In India, the bill was sent to the parliamentary panel in 2019 after the opposition parties said the data privacy law violated the fundamental rights of the citizens. They said the law gave

typically among the most prominent data collectors and processors of people's personal information, and the Digital Security Agency is assigned to be the lead agency in carrying out such work on behalf of the state. If the current draft becomes law, then the DPO will simply become another tool of the government to invade the private space of individuals and abuse opponents and critics.

The latest revised draft still contains too wide a scope for exemptions to meaningfully protect data and guard against the misuse and abuse of powers. Submissions made earlier by Access Now, a global advocacy group for defending the digital rights of users, pointed out that the scope of exemptions and the circumstances in which – and under whose authority – they may be applied is not clearly defined; the provision does not carry any meaningful limitations, and fails to lay down a procedure to ensure

affected parties to enforce their rights and seek remedy and redress must be well-defined by law.

Stringent data localisation provisions kept in the draft act also means retention of the government's access to and control over the data, increasing the vulnerability of people's privacy and free speech. Existing laws and regulatory frameworks in Bangladesh allow for any data stored in Bangladesh to be subjected to surveillance, monitoring and interception, as well as data disclosure or removal requests, by government and intelligence agencies, who could be exempt from the draft act. Access Now argues, "Insufficient safeguards to protect people's data may also undermine Bangladesh's trade prospects with other territories, such as the European Union, the United Kingdom and the United States, which place restrictions on transfer of personal data unless the country provides an adequate level of protection for the rights and freedoms of users in relation to the processing of personal data." As a result, it cautions, that people in Bangladesh may be deprived of access to internationally available services, thereby placing them at a disadvantage and negatively impacting rights, accessibility and growth.

The proposed legislation makes way for storing data in data centres and servers in Bangladesh with exceptions

in countries like the United States, Saudi Arabia, and many countries. He has also become a big influence in the country's capital market."



The recent results in Zimbabwe have shown that the Bangladesh national cricket team did not do any homework on their young opponents.

PHOTO: AFP

Woe of the Tigers



BLOWIN' IN THE WIND

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SHAMSAD MORTUZA

To be honest, I will not be disappointed if we lose 3-0 against Zimbabwe in T20Is. Our main target in T20Is is to experiment, which we can't do in (the) ODIs." Thus spoke Khaled Mahmud Sujon, the Bangladesh cricket team director, before the team's departure for Zimbabwe.

The experiment saw Nurul Hasan Sohan at the helm, resting the off-form skipper Mahmudullah. Eventually, the Tigers lost their three match T20I series against Zimbabwe 1-2, making the team director eat his own words. Mahmud said, "I am very disappointed, I didn't expect to lose to Zimbabwe. We are a better team than them. I would call it a disgrace. Losing was quite unusual. When we needed 10 or 12 runs an over, we were getting six or seven. Nobody even tried to hit a six. Everyone was playing for ones and twos. They batted like (they were) trying to protect their place, make enough runs so that they don't lose their place."

Injuries to in-form batters Litton Das and Nurul Hasan brought Mahmudullah back in the team for the series deciding match – not as the captain though, but as a middle-order batter who seemed more concerned about his place in the team. The captaincy went prematurely to someone who had an unlikely success of five for with the ball in the previous match. Mosaddek Hossain failed miserably in his new role. Team Tigers had no answer to Zimbabwe's gritty performance.

The fickle-minded manager probably hoped that Bangladesh would continue their dominance over their African opponent. He had history on his side. He underestimated the counterpunch hurled by the veteran Zimbabwean campaigner Hasan Raza, whose playing experience in Bangladesh proved handy. After losing the subsequent ODIs, somehow averting the ignominious whitewash, Tamim Iqbal offered no excuse as he knew that the better team had won.

The month, however, began with our cricket bosses claiming that the Bangladesh team's surge in the ODI format had been praised in the annual report of the International Cricket Council (ICC). Good for the paper tigers. The tamed performance in the field tells another tale, though. We are a team on the slide. In any other country, by now heads would have rolled at all levels.

Meanwhile, the poster boy of Bangladesh cricket, Shakib Al Hasan, has embraced further controversy for promoting a betting portal. Once the Bangladesh Cricket Board (BCB) decided to axe him from the Asia Cup squad, Shakib reluctantly withdrew from the nefarious contract. This is the very cricketer who was banned by the ICC for one year on charges of failing to report a corrupt approach from an Indian bookie in 2019.

Shakib is known for his business acumen, which spreads outside the domain of cricket. According to Dailycricket.com.bd, which ran a story on our Test captain, "Shakib started as a businessman through investment in the restaurant business, and soon his business sphere expanded in stocks, plants, cosmetics, travel agencies, hotels, event management, and various sectors. Outside the country, he has invested

in countries like the United States, Saudi Arabia, and many countries. He has also become a big influence in the country's capital market."

Shakib's shrewd practical sense was evident when he led a players' revolt right before his bookmaker controversy. While the demands for a fair share of the revenue generated by the BCB for the professional players were legit, its sheer timing benefitted Shakib, who played a figurative scoop shot to divert the ball charged at him.

Shakib can afford to be complacent as he knows that his outstanding career track record will secure his position on the team. With his brilliance, he could get away with anything with a simple slap on the wrist. The sense of security is equally detrimental for the top posts, where the corporate bosses always want to play it safe. Nobody wants to rock any boat.

CLR James in *Beyond a Boundary*, his part autobiography and part social, cultural, and political analysis of cricket, referred to the Russian-Ukrainian Marxist revolutionary Leon Trotsky, who thought of sports as a means to deflect workers from politics. It seems our current bosses are using politics to deflect us from sports.

James outlays the spectacular quality of cricket where the audience expects the athletes to perform. In ancient Greece, an athlete was treated as a representative of the community, and his "victory was a testament to the quality of the citizens. All the magnates of the city welcomed him home in civic procession. They broke down a part of the wall for him to enter: a city which could produce such citizens had no need for walls to defend it. For the rest of his life, he ate at the public expense." Here is a thought for those who find Shakib's actions all Greek. Shakib is cashing in all the treasured memories that he created for us.

Such complacency affects the morale of the entire team. You have a coach whose performance is below par, yet we are told he is the best option that we have. The board is guilty of hoarding money and not doing enough for expanding cricket around the country.

Then, our senior players are no longer sure of their roles in the team, and the top management has no graceful exit plan for them. Can they not be engaged as mentors and given charge of various district or school teams?

We want our cricketers to be our national treasures. They have worked hard to hone their talents to come and perform at the international level. But somehow there are factors beyond their control that are affecting their performances.

The recent results in Zimbabwe have shown that the team did not do any homework on their young opponents. They were buoyed by their previous success record, built over the last nine years, to think that they would triumph without any major opposition. They showed that they had little match fitness and were very prone to injuries. Litton and Sohan's injuries proved disastrous. But the damage is far more deep-rooted than a physical injury. It pains us to see the complacency and lackluster attitudes with which Team Tigers and their bosses act and behave. They have little concern for the injuries they do to their supporters.



The Bangladesh government's understanding of data governance and priority have not changed, which is clear in the third draft of the proposed data protection act.

VISUAL: SALMAN SAKIB SHAHRYAR

sweeping powers to the government to access personal data of individuals under opaque conditions citing national security and other reasons. The law also reportedly would have required large social media platforms to offer an identity verification option, a potentially precedent-setting effort to rein in the spread of "fake news." Rights groups and tech giants argued that the requirement proposed by the Indian government would likely raise a host of technical and policy issues, including potential conflicts with other governments over data localisation.

Similarities between Bangladesh's draft law and the bill abandoned by India were too many, especially in the areas of invasive powers allowed to the government agencies on ill-defined grounds and imposition of the requirement of data localisation. In fact, changes brought in the third draft of the bill proposed in Bangladesh, published on July 16, 2022 by the ICT Division, would make minorities more vulnerable as data related to their religious beliefs, political ideologies or sexual orientation have been excluded from the list of "Sensitive Data."

transparency and accountability, and adherence with principles of necessity and proportionality. But the draft does show their concerns have been ignored outright.

The draft act also retains undefined and unrestricted rule making powers of the government, which experts and activists have been opposing, arguing that such powers must be restricted,

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and as much as is possible be prescribed in legislation formulated through a democratic process of participation and parliamentary procedures. Provisions with respect to scope and procedures for access, storage and disclosure of data and the mechanism for the

for necessary cross-border data transfer with prior notification to the director general of the Digital Security Agency, but what constitutes "necessary" has not been clearly defined. Domestic and foreign businesses connected to the global economy will thereby face serious impediment due to such restrictions on cross-border data flows. Experts say data centres are power-hungry and expensive to build and maintain, which will discourage new ventures, and small and medium sized business units will face huge challenges to survive.

One unique addition in the latest draft, perhaps the first in the world, is that the government has absolute liberty to fix different effective dates for different sections of this act, through official gazette notifications. Why want such an extraordinary measure to enforce a new legislation? It allows the government to delay the implementation of the sections that protect people's rights, but apply the harsh and anti-people sections immediately.

The publication of the third draft makes it clear that the Bangladesh government's understanding of data governance and priority have not changed. Its priority is to establish full control over all data collected and stored or its trafficking within and outside of the country. All of these would be done under the notion of security and sovereignty of the state, instead of allowing the citizens control over their personal data and protecting their rights to privacy. We could only hope our government would take lessons from our closest neighbour and one of the largest digital markets in the world, and consider rewriting the draft act with wider consultations with all the stakeholders.

CROSSWORD BY THOMAS JOSEPH

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