



Personal Data Protection Act, 2024 (draft)

Better than Earlier
Still a Tool for Control and Surveillance

28 April 2024

Introduction

- The outgoing Bangladeshi Cabinet approved the PDPA in November 2023.
- The draft is expected to be presented to parliament soon.
- Stakeholders like Transparency International Bangladesh (TIB) and other civil society organisations provided revisions.
- This briefing highlights unaddressed concerns that could turn the PDPA into a control tool.

Needed: A Rights-Based Approach

- The PDPA should reference existing constitutional protections for:
 - Privacy
 - Freedom of expression
- This establishes a rights-based foundation, prioritising citizen rights over advancements.

Overly Broad Scope Threatens Core Objective

- The PDPA's broad scope applies to a vast range of data, not just personal data.
- Focusing on personal data aligns Bangladesh with best practices and strengthens individual privacy protections.
- The definitions of "personal data," "data fiduciary," and "processor" require more specificity.

Data Localization

A Security Risk with Human Rights Concerns

- Section 51 mandates storing all classified data within Bangladesh's territory.
- The government has arbitrary authority to determine what data is classified.
- Data localisation can:
 - Limit free speech and human rights
 - Increase data security risks
 - Hinder government accountability for breaches

- **Data localisation could make data breaches more damaging:**
 - Storing data in a single location creates a single point of failure for hackers.
 - Limited oversight by international security experts could weaken overall data security posture.
- **Data localisation can hinder economic growth:**
 - International companies may be hesitant to operate in Bangladesh due to data storage restrictions.
 - This could stifle innovation and limit access to foreign investment.

An Independent Data Protection Authority is Essential

- The PDPA proposes a government-appointed Data Protection Board.
- An independent Data Protection Authority (DPA) is crucial for fair enforcement.
- A government-controlled DPA could be biased and unable to hold the government accountable.
- An independent DPA fosters public trust and ensures effective PDPA enforcement.
- We propose that an Independent Data Protection Commission should be formed under this Act to ensure proper enforcement of data protection principles.

Unfettered Access to Personal Data: A Threat to Privacy

- Section 10(2-d) allows access to personal data without judicial oversight.
- This weakens the PDPA and risks unnecessary intrusion into personal privacy.
- Judicial oversight ensures legitimate data access requests and protects individual rights.

Broad Exemptions Undermine Data Protection

- The PDPA proposes extensive exemptions for activities deemed to be in the "public interest."
- This weakens transparency and accountability, reducing individual control over personal information.
- A more balanced approach is needed, safeguarding both public functions and individual privacy.

Unrealistic Enforcement Timeline

- The draft proposes immediate enforcement upon publication.
- Many businesses and organisations, particularly smaller entities, may lack the resources to comply immediately.
- A staggered approach allows businesses/entities time to adapt and ensures effective enforcement.

Conclusion and Call to Action

- The PDPA draft represents a step towards data protection in Bangladesh.
- However, significant concerns regarding fundamental rights remain.
- We urge the government to consider these recommendations for a robust data protection law:
 - Strengthen the PDPA's foundation in fundamental rights.
 - Narrow the scope to focus on personal data.
 - Revise data localisation provisions or remove them entirely.
 - Establish an independent Data Protection Authority.
 - Require judicial oversight for access to personal data.
 - Limit exemptions for activities in the "public interest."
 - Implement a staggered enforcement timeline.

Thank You