# ACHIEVERS IAS ACADEMY

## B N SRIKRISHNA COMMITTEE-DATA PROTECTION

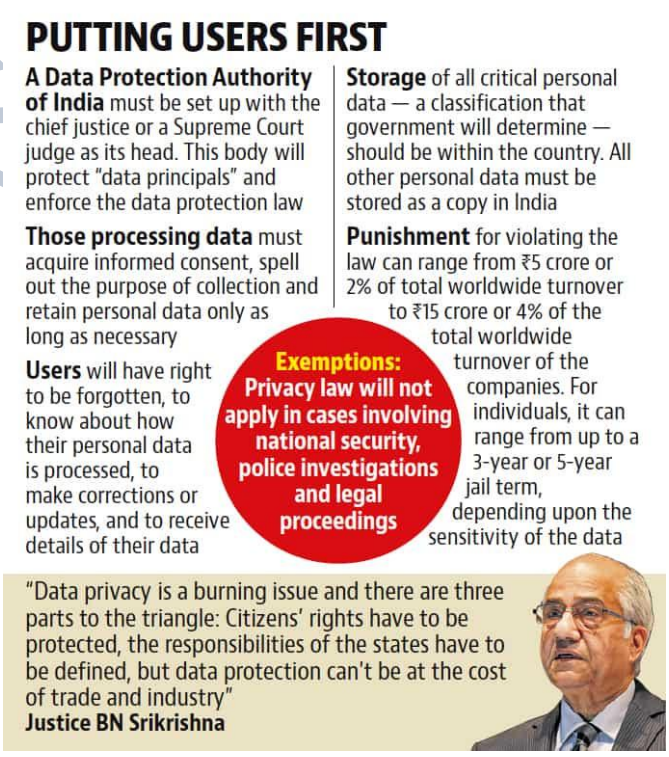
**GS 2, MAINS**: Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

- The report has huge implications on data handling and processing practices by both Indian as well as foreign companies along with government departments.

- This is a landmark report in many ways, given its multiple but critical touchpoints: a nascent but growing digital economy, the unmapped and uneasy relation between citizens (the committee calls them "data principals") and data managers ("data fiduciaries"), the state's contentious role, the legal dilemma of trying to constrain globally mobile data within local legislative jurisdictions, among many others.

### RECOMMENDATIONS OF THE REPORT:

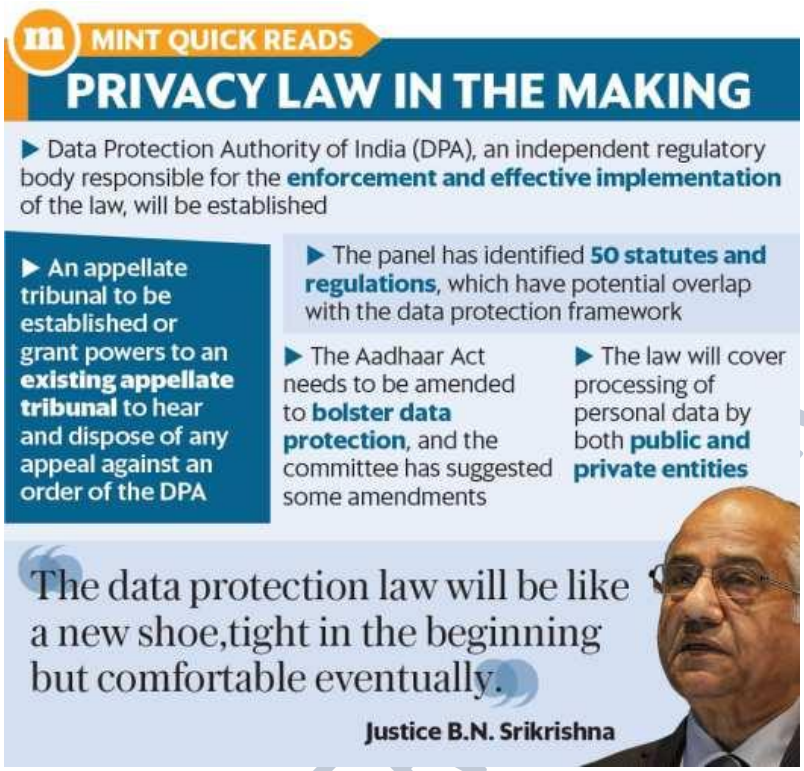
- The committee recommends that processing (collection, recording, analysis, disclosure, etc) of personal data should be done only for "clear, specific and lawful" purposes. Only that data which is necessary for such processing is to be collected from anyone.
- Your personal data may be processed by the government if it is considered necessary for any function of Parliament or State Legislature. This includes provision of services, issuing of licenses, etc.




- The committee recommends giving "data principals" (persons whose personal data is being processed) the 'right to be forgotten'. This means they will be able to restrict or prevent any display of their personal data once

the purpose of disclosing the data has ended, or when the data principal withdraws consent from disclosure of their personal data.

- Personal data will need to be stored on servers located within India, and transfers outside the country will need to be subject to safeguards. Critical personal data, however, will only be processed in India.




- The Committee recommends that "sensitive" personal data (such as passwords, financial data, sexual orientation, biometric data, religion or caste) should not be processed unless someone gives explicit consent – which factors in the purpose of processing.
- The Committee has recommended setting up a Data Protection Authority which is supposed to "protect the interests of data principals", prevent misuse of personal data and ensure compliance with the safeguards and obligations under the data protection framework by corporations, governments or anyone else processing personal data (known as "data fiduciaries"). The obligations on data fiduciaries include conducting audits and ensuring they have a data protection officer and grievance redressal mechanism – the Authority will need to publish Codes of Practice on all these points. The Authority shall have the power to inquire into any violations of the data protection regime, and can take action against any data fiduciaries responsible for the same.
- The Committee has suggested recommendations to the Aadhaar Act 2016 to ensure autonomy of the UIDAI and "bolster data protection". These include offline verification of Aadhaar numbers and new civil and criminal penalties – though the ability to file complaints will remain with the UIDAI alone.

## MERITS:

- Changes To The Language Of Privacy: Europe's recently implemented General Data Protection Regulation refers to individuals whose data is collected as 'data subjects' and those who collect the data as 'data controllers'. Justice Srikrishna's committee has changed this language to 'data principals' and 'data fiduciaries,' saying an individual is the focal factor in the digital economy.
- Approach on Surveillance: The committee has recognised that though security of the state is a ground for partial exemption from the data protection law, it must come with certain safeguards to prevent abuse.
- Data Portability Framework: The committee has proposed several rights for data principals, namely right to confirmation, access, correction, data portability, right to be forgotten etc. Data portability across silos is the strongest representation of the rights of users and it will be incredibly powerful. To address concerns of costs, the committee has proposed that fiduciaries may be allowed to charge a reasonable fee to effectuate this right.

## DRAWBACKS OF THE RECOMMENDATIONS:

- Report and Bill-Conflicts: There are several proposals that the committee has dealt with in the report, but they've not made their way into the Personal Data Protection Bill also proposed by them. For instance, while they have talked about surveillance reforms in the report, the Bill doesn't have any provisions on it.
- The report has proposed several amendments to the Aadhaar Act but they aren't included in the Bill.
- Data Localisation-Huge Cost, Unclear Purpose: The committee has proposed strict standards for cross-border transfer of data and storage. A lot of start-ups just use cloud platforms. They don't care whether it's an Indian or international cloud. Cloud storage is the cheapest because it can be stored anywhere. The start-ups are now forced to choose more expensive options. The big corporations who want access to the market may be able to do this, but smaller businesses will find this very cumbersome. Further, setting up and running data centres has a huge environment cost attached to it.
- The proposal is to have one national authority and there's no concept of regional authorities. A national level authority won't be able to cope with the volume of complaints that'll come to it.

## PREVIOUS YEARS UPSC MAINS QUESTIONS:

- The aim of Information Technology Agreements (ITAs) is to all taxes and tariffs on information technology products by signatories to zero. What impact would such agreements have on India's interests? (2014)
- Discuss -Section 66A of IT Act, with reference to its alleged violation of Article 19 of the Constitution. (2013)