

DRAFT DATA PROTECTION BILL, 2021:

DISSENT NOTES

IFF unpacks the dissent
notes, what the MPs are
saying about the JPC Report.



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DISSENT IS DEMOCRATIC!

8 members of the JPC on Personal
Data Protection Bill 2019 have
moved dissent notes against the
final report of the JPC.

Swipe for quick highlights.





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MANISH TEWARI

"The bill as it stands creates two parallel universes – one for the private sector where it would apply with full rigor and one for government where it is riddled with exemptions, carve outs & escape clauses"

INC MP Manish Tewari rejected the bill stating "there is an **inherent design flaw** in its very construction". His dissent chiefly flags:

- **Wide exemptions** given to the government
- **Composition of the DPA**
- **Dilution of penalties**, which he says is "suggestive of... **lobbying by Big Tech**".



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MAHUA MOITRA & DEREK O'BRIEN

"We strongly condemn the Bill for supporting a framework that fails to protect the digital rights of the people of this country"

MPs Derek O'Brien & Mahua Moitra criticized the bill's "Orwellian nature" & flagged the "improper functioning" of the JPC. Some of their concerns were:

- processing of personal data without consent.
- exemptions given to the government
- linking IDs with social media accounts



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GAURAV GOGOI

"The Government and its agencies are among the largest custodians of personal data; exemptions that are proposed in the Bill are against the essence of the privacy being a fundamental right."

MP Gaurav Gogoi while agreeing with the bill expressed concerns regarding:

- Lack of surveillance reform
- Exemptions to the government without parliamentary oversight
- Functioning of the DPA
- "Premature" inclusion of non personal data.



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RITESH PANDEY

"it is vital to ensure that the members of the DPA are impartial and independent of outside influence from any party including the central government".

MP Ritesh Pandey expressed dissatisfaction with:

- Definition of child in clause 3(8)
- **Exemptions** given to the government
- Composition of DPA.



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JAIRAM RAMESH

“[g]overnments and government agencies are treated as a separate privileged class whose operations and activities are always in the public interest and individual privacy considerations are secondary.”

- MP Jairam Ramesh criticized the wide exemptions given to the government under clauses 12 and 35, stating that the bill “assumes that right to privacy arises only where private companies are concerned”, and treats “[g]overnment as a privileged class”.



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VIVEK TANKHA

“The PDP, 2019 Bill finds itself based on an incorrect assumption that the right to privacy arise only for protection against breach of qua private and the state is virtually exempted from these constitutional responsibilities”.

- MP Vivek Tankha criticized exemptions given to the government in clauses 12 & 35 stating that our constitutional freedoms should not be left to “state[‘s] fancy”. Argued for removal of “public order” as a ground for exemption under clause 35.



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AMAR PATNAIK

“the government cannot appear to be taking a pre-eminent position in safeguarding citizen’s informational privacy as per the whims and interpretation of an event occurrence”.

MP Amar Patnaik highlighted right to privacy and federalism while arguing for:

- a constitutional and federated DPA
- Quantification of penalties under the bill
- **Narrowing exemptions** under clause 35
- Inclusion of a **retired SC judge** in the selection committee for selecting members of DPA.



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**Check out the full analysis from
the link in the bio.**