

More than 1 Billion People Now Have a Fundamental Right to Privacy - India Gets It Right

September 1, 2017 - In a case that most Americans have overlooked, the Supreme Court of India just ruled that individuals have a fundamental right to privacy. The case pitted the interests of the Indian government - which was attempting to implement a ubiquitous identification card - against the interests of individual citizen. With this ruling, individual citizens won. But that's not likely to be the end of the story. We suspect that once the dust settles from the ruling, companies around the globe may be enticed to store some or all of their customer data in India; placing it out of reach to other governments around the world.

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India is the second most populous country on the globe; with 1.3 Billion citizens. That amounts to more than 17% of the world's population. On August 24th, the Indian Supreme Court said that every one of those citizens had a fundamental right to privacy under the Article 21 of the Indian Constitution.

The ruling is likely to create some chaos for the government over the short term. Indian legislators now have to balance the privacy rights of individuals against those of the state. This will impact everything from criminal investigations to the way that companies store and share data; both between companies and with the government.

On a long term basis, we expect the ruling to be good for India's economy and for online privacy around the globe. Western companies with an interest in protecting their client data from prying government eyes in the United States and Europe will have to seriously consider moving some or all of their data storage facilities. This would place them beyond the reach of search warrants issued in the west. This isn't a hypothetical. American companies have already moved some data storage facilities to EU nations; which have significantly stronger privacy laws than are available in the US.

By moving facilities to India, data would also be out of reach to European Union courts. That's an attractive proposition to anyone who wants to protect their data.

The largest obstacle to any such move is currently the state of Indian infrastructure. Anyone who has ever visited India can tell you that it is a nation of contradictions. Modern skyscrapers with cattle running in the streets. Everyone has a cell phone that works but dedicated land-line based telecommunications are limited. Dirt roads and Ferraris. India is a shock to the senses for most westerners.

But over the past several years, the country has come a long way. This ruling may speed up the process of modernization by attracting investment capital. And within the next few years, it will certainly have an impact on the way companies work around the globe.

by Jim Malmberg

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