

As Outsourcing Grows In India, Privacy Stakeholders Organize to Launch Public Debate on Privacy Protections

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India is becoming a leader in Business Process Outsourcing (BPO), increasing amounts of personal information from other countries are flowing into India. India's outsourcing business is expected to grow to \$20 billion and employ about 2 million people by 2008. Questions have been raised about the ability of Indian companies to adequately protect this information.

There are legal remedies in India to address issues of privacy violations despite the absence of an all-encompassing privacy law in India. The right to privacy is included in the country's Constitution, and upheld in a Supreme Court judgment as well. In addition, industries such as accountancy and law have Self-Regulatory Organizations (SRO) with a prescribed code of conduct, and recently, the telecom and banking industries have set up SROs, which have codes for handling customer data. The IT and BPO industries also are close to setting up an SRO.

As mentioned by Dr. Amartya Sen in his book, "Argumentative Indian," there is a long history of success for public reasoning in the democratic society in India. Accordingly, the National Association of Software Services Companies (NASSCOM) decided to create a public debate and reasoning on privacy topics in India. One of the first efforts was to plan a research study during the summer 2006 to initiate a discussion among different stakeholders in the privacy space in India and to bring the group together to plan for a road map for the privacy discussions.

One-on-One Discussions with the Stakeholders

The group was comprised of attorneys, technologists, journalists or activists, entrepreneurs and government employees. Ponnurangam Kumaraguru met with stakeholders from different parts of India who have written or worked in the area of privacy. This was a one-on-one interview which lasted for about 60 to 90 minutes. Kumaraguru, a representative of NASSCOM, met with two or three participants in each group. The topics that we discussed with the participants of the study were: their understanding of privacy and related topics in the Indian context; privacy laws or frameworks in India; and their views on Information Technology ACT (IT ACT) 2000. The participants interviewed echoed these themes:

- There is no common definition of privacy in India. Most participants agreed that there should be a working definition of privacy which is accepted in the court, organizations, public, etc.
- The general public is not aware of their rights toward their information and data protection.
- The group should work toward a framework for protection of the personal information of Indian citizens among Indian and foreign organizations. There are legal remedies for privacy breaches in India but they are not codified in one single place. For example remedies can be provided by Indian Contract Act, 1872; Indian Penal code, 1960; Special Relief Act, 1963; Consumer Protection Act, 1986; and the IT ACT 2000.

Most of the study participants interviewed agreed there was a need for a privacy framework for India. The next step was to gather the participants for a roundtable discussion.

Roundtable Discussion Held in Early August

Twenty-two participants from all over India gathered on Aug. 8, 2006 in Mumbai, India. Most of the participants were from organizations which have global presence, such as IBM, Microsoft, eBay, KPMG, TCS, Cognizant, Ernst & Young, WNS and others. Attorneys, journalists, activists and government employees also attended the session. While the group represented a broad array of stakeholders in the privacy community, it was not all-encompassing of the entire privacy community in India. The summary of the roundtable discussion:

- While defining privacy, there were many different definitions among the participants. Most of the participants agreed on "Privacy is a right of an individual to restrict the use of the personal information other than the intended purpose by the collecting or the holding party."
- Participants agreed that the de facto should be "everything is private unless I choose it not to be private" and privacy is contextual and subjective.
- When asked to list what information comprises PII, participants felt that the list is subjective and contextual and so one cannot derive a list that can be used in all situations. Therefore, the list only can be a working one.
- Twenty of the 22 participants chose for opt-in against opt-out choice if the information collected for some purpose is then used for purposes other than the reason for which it was initially collected. It was not entirely clear why the two participants favored opt-out.
- Participants agreed that the government should not be excluded from the purview of any privacy framework. Participants said that the government agencies can share information among other agencies after obtaining necessary permissions.

There never has been an effort in India to bring different stakeholders together for a discussion about privacy. NASSCOM is proud of its role in initiating the discussions about privacy in India. To date, this effort has been an exploratory one, but this early framework has given NASSCOM and other stakeholders the opportunity to launch additional focused discussions in the context of privacy. As there is no single community discussing privacy issues in India, the roundtable provided an opportunity for participants to network with people who are thinking or working in the same area.

Some of the future steps planned are:

- To continue the discussion on the privacy framework started in the roundtable, NASSCOM has created a Privacy-India Yahoo! groups. This will help us in exchanging ideas online, and if necessary, members will meet offline.
- With respect to growing the privacy community and creating the privacy framework, we plan to conduct a future Workshop on "Privacy in India."
- To network and collaborate with other organizational bodies and stakeholders in India.

For further information on the research and to contribute towards the privacy discussions in India, please contact Ponnurangam Kumaraguru (PK), ponguru@cs.cmu.edu.



Team which organized the round table; left to right: Nandkumar Saravade, Sunil Mehta and Ponnurangam Kumaraguru



Ponnurangam Kumaraguru addresses the round table discussion.

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