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Global Data Privacy Laws 2023: 162 National Laws and 20 Bills

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Global data privacy laws 2023: 162 national laws and 20 Bills

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Since 2011 this publication has made a biennial assessment of the growing number of data privacy laws and Bills across the globe. This is the start of the seventh such assessment, which in this issue includes two parts, an assessment of the new data privacy laws and Bills since 2021, and a separate assessment of the extent of enforcement of data privacy laws across the globe. Following issues will include an assessment of the current state of international agreements on data privacy, and of international cooperation among data protection authorities. The Tables which document these matters for all countries are published separately.

The state of laws and Bills

Since 2011 there has been a steady growth in data privacy laws: 2011/76 countries; 2013/99; 2015/109; 2017/120; 2019/132; 2021/145; and now 162 countries in early 2023. Each assessment is accompanied by detailed tables listing key features of all the laws assessed.¹ Previous assessments have argued that the steady growth of data privacy laws means that they were becoming ubiquitous. This assessment shows that point has now been reached, with only 18% of UN Member States having neither a data privacy law nor a privacy Bill in progress.

New laws to 2023

By January 2021, 145 countries had enacted data privacy laws.² Another twelve countries did so by mid-2022, bringing the total to 157. Each of the twelve laws is described briefly in a survey article³, with further analysis as indicated in footnotes below: Rwanda; Zimbabwe; Zambia; Sri Lanka⁴; British Virgin Islands; Belize; Mongolia⁵; Belarus; Ecuador; Saudi Arabia (PLBIR Oct 2021, p.1); United Arab Emirates (Federal) (PLBIR Feb 2022, p.1); and Oman.

¹ Previous tables have been published by *Privacy Laws & Business International Report*. The 2023 Tables for this assessment are published on SSRN at <https://ssrn.com/abstract=4405514>.

² Greenleaf, Graham 'Global data privacy laws 2021: Despite COVID delays, 145 laws show GDPR dominance' (2021) 169 *Privacy Laws & Business International Report*, 1, 3-5

³ Greenleaf, Graham 'Now 157 Countries: Twelve Data Privacy Laws in 2021/22' (2022) 176 *Privacy Laws & Business International Report* 1, 3-8; the names of each law, and the data protection authority administering it is given.

⁴ Greenleaf, Graham 'Sri Lanka's Personal Data Protection Act is Finalised with a Stronger DPA' (2022) 177 *Privacy Laws & Business International Report* 25-27

⁵ Greenleaf, G and Kaldani, T 'Mongolia's unique data privacy law completes coverage of Central Asia' (2022) 178 *Privacy Laws & Business International Report* 25-28

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From mid-2022 to January 2023, there are five additional countries with new laws: Indonesia⁶ (the world's third most populous country); Cuba; eSwatini (Swaziland); Laos; and Tanzania. Cuba's *Personal Data Protection law* (Law 149/2022)⁷ is the 18th such law in the Caribbean. It seems like a moderate quality law but has no separate DPA. eSwatini's *Data Protection Act*,⁸ enacted in March 2022, is administered by the eSwatini Communications Commission (ESCCOM).⁹ The Lao People's Democratic Republic enacted the *Law on Electronic Data Protection*¹⁰ No. 25/NA on 12 May 2017 but due to lack of translation it was unrecognised. It has the normal range of data subject rights but relies primarily on the criminal law for enforcement.¹¹ It has similarities to the information laws enacted in the past by 'socialist' countries and ex-Soviet republics. Tanzania's *Personal Data Protection Act 2022* (Act 11 of 2022) has been approved by the Parliament.¹² It establishes a Commission for the Protection of Personal Data, but one lacking independence from the President.

A total of 162 countries have therefore enacted data privacy laws.

Bills for new national laws

At least twenty other countries without data privacy laws have Bills for such new laws:¹³ Cambodia; Bolivia; Ethiopia; Saint Helena, Ascension & Tristan de Cunha; Tanzania; The Gambia; Kuwait; Malawi; South Sudan; Bangladesh¹⁴; Pakistan¹⁵; Brunei; Guyana; El Salvador; Guatemala; Suriname; Honduras; Iran; and Jordan. Djibouti and the Democratic Republic of the Congo are drafting comprehensive Digital Codes, like that in Benin, but they are not yet completed.¹⁶

⁶ Rahman, A and Greenleaf, G '[Indonesia enacts personal data protection Act, with a DPA](#)' (2022) 180 *Privacy Laws & Business International Report* 22-24

⁷ Cuba *Personal Data Protection law*: <https://gacetaoficial.gob.cu/sites/default/files/goc-2022-o90_0.pdf>

⁸ Eswatini *Data Protection Act* <<https://www.esccom.org.sz/legislation/DATA%20PROTECTION%20ACT.pdf>>

⁹ ESCCOM Data Protection Act guide <<https://www.esccom.org.sz/legislation/dataprotection/>>

¹⁰ Laos < <http://lsp.moic.gov.la/?r=site%2Fdisplaylegal&id=289>>

¹¹ Caseguard 'Data Protection in Laos, New Regulations for Privacy' 22 December 2021 <<https://caseguard.com/articles/data-protection-in-laos-new-regulations-for-privacy/>>

¹² Bernard Lugongo 'MPs underline benefits of personal data protection law' 3 November 2022, *Daily News* (Tanzania) < <https://dailynews.co.tz/mps-underline-benefits-of-personal-data-protection-law/>>

¹³ See Greenleaf '[Now 157 Countries: Twelve Data Privacy Laws in 2021/22](#)', 'Table of Bills for new Acts' for the name of these Bills.

¹⁴ Greenleaf, G '[Bangladesh's Data Protection Bill](#)' 180 *Privacy Laws & Business International Report* 26

¹⁵ PRS Research Service analysis of India's Bill: < <https://prsindia.org/billtrack/draft-the-digital-personal-data-protection-bill-2022>>

¹⁶ [Aissatou Sylla](#) 'Recent developments in African data protection laws - Outlook for 2022' 1 February 2022 < <https://www.lexology.com/library/detail.aspx?g=d40ed2c1-d395-4987-9719-1a3a220d83b3>>

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Updated existing laws

Many countries have updated their existing data privacy laws in 2021-22, including: Abu Dhabi; Andorra; Burkina Faso¹⁷; Cape Verde¹⁸; Cayman Islands; China; Hong Kong SAR; Kazakhstan; South Korea; Russia; Uzbekistan; and Vietnam.¹⁹ Various EU Member States enacted new or re-named laws to implement parts of the GDPR. Other countries enacted regulations expanding on existing laws.²⁰ Others have draft Bills to update existing laws, including Senegal (enactment of a replacement for its 2008 Act has been considerably delayed); and Australia.²¹

Two failures to enact draft Bills in 2022 are of particular global significance: the US, and India.

India's latest Bill goes backwards

Almost five years after the Srikrishna Report²² included the first draft of a comprehensive data privacy law for India, the government has 'gone back to scratch' with a new *Draft Digital Personal Data Protection Bill, 2022*²³ prepared by the Ministry of Electronics and Information Technology. Among other criticisms, Justice Srikrishna says 'If the Bill gets passed as it is, it will not be able to safeguard citizens or individuals against the poaching of data and misuse thereof by government agencies.'²⁴ I will analyse this law in the next issue of this Report.

USA misses its cue

The US Congress failed to enact the *American Data Privacy and Protection Act (ADPPA)*²⁵ in the dying days of the Democrats having a House majority. The Bill as it stood would have been the first comprehensive data privacy law for the US, except that it had a fatal flaw from a global perspective: it only provided protection to US residents. The Bill had substantial bipartisan support, so it remains to be seen whether it will re-emerge, preferably improved, under a Republic House majority. President Biden has called for 'Democrats and Republicans

¹⁷ Burkina Faso: Sylla op cit

¹⁸ Cape Verde: Sylla op cit

¹⁹ Greenleaf, G. '[Vietnam: Data privacy in a communist ASEAN state](#)' (2023) 181 *Privacy Laws & Business International Report*, 1, 5-8

²⁰ For an extensive list of such regulations in Africa, see Sylla op cit

²¹ Coombs, E and Modh, K 'Australia: Closer alignment with international penalties' (2021) 170 *Privacy Laws & Business International Report*, 1, 5-7

²² Committee of Experts on a Data Protection Framework for India (Chair: Justice B. N. Srikrishna) *Report: A Free and Fair Digital Economy* <27 July 2018>; Summary by PRS Legislative Research at <<https://prsindia.org/policy/report-summaries/free-and-fair-digital-economy>>

²³ MEITY (India) *Draft Digital Personal Data Protection Bill, 2022* <https://www.meity.gov.in/writereaddata/files/The%20Digital%20Personal%20Data%20Potection%20Bill%2C%202022_0.pdf>

²⁴ Suprita Anupam 'The DPDP Bill Does Little To Protect The Fundamental Right To Privacy: Justice BN Srikrishna' Inc4 24 November' 2022 <<https://inc42.com/buzz/the-dpdp-bill-does-little-to-protect-the-fundamental-right-to-privacy-justice-bn-srikrishna/>>

²⁵ Greenleaf, G '[Proposed US federal data privacy law offers strong protections but only to US residents](#)' 179 *Privacy Laws & Business International Report* 1, 3-7

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to come together to pass strong bipartisan legislation to hold Big Tech accountable' including 'serious federal protections for Americans' privacy'.²⁶

Until that occurs, state laws (if they qualify as a data privacy law) will need to be included as part of the US's data privacy law joining California's law.²⁷ There are nine states that have so-called 'comprehensive' data privacy Bills before their legislatures: Massachusetts; Iowa, Mississippi Indiana, Oklahoma, Oregon, Tennessee, New York and Kentucky.²⁸ Such laws have already been enacted in California, Colorado, Virginia, Connecticut, and Utah.²⁹ The *Massachusetts Data Privacy Protection Act* '[I]ooks like the first new bill to contain elements directly inspired by the ADPPA - data civil rights, privacy by design, etc.'³⁰ State laws that do qualify as data privacy laws can be seen, with California's law, as cumulatively comprising the content of the US private sector's data privacy law.

Who's left?: Who does not have a law or a Bill?

With 162 countries having enacted data privacy laws, and another twenty or more having Bills or draft laws to do so, it is now a simpler question to ask 'which countries have failed to yet enact a data privacy law (or draft a Bill)?' If we compare the list of UN member States,³¹ the 36 missing countries are as follows:

Burundi; Central African Republic; Comoros; Democratic Republic of the Congo (Congo Kinshasa); North Korea; Djibouti; Dominica; Fiji; Grenada; Guinea Bissau; Haiti; Iraq; Kiribati; Liberia; Libya; Maldives; Marshall Islands; Micronesia; Mozambique; Myanmar; Namibia; Nauru; Palau; Papua New Guinea; Samoa; Sierra Leone; Solomon Islands; Somalia; South Sudan; Sudan; Syria; Timor-Leste; Tonga; Tuvalu; Vanuatu; and Venezuela.

The countries with laws (162, whether UN members or not), plus countries with Bills (20), plus UN Members with neither (36), gives 218 countries, compared with the current UN membership of 193. So there are 25 non-UN members with data privacy laws or Bills.³²

There is nothing that unites the disparate group of 36 countries without laws or Bills, and certainly not some principled opposition to data protection laws. Nine Pacific Island countries

²⁶ Joseph R. Biden 'Op-Ed by the President: Republicans and Democrats, Unite Against Big Tech Abuses Online' available from G. Peters and J. T. Woolley, *The American Presidency Project* <<https://www.presidency.ucsb.edu/node/359330>>

²⁷ G. Greenleaf '[California's CCPA 2.0: Does the US Finally Have a Data Privacy Act?](#)' (2020)168 *Privacy Laws & Business International Report* 13-17

²⁸ C. Lima and A. Schaffer 'States are readying a flurry of privacy bills as Washington stalls' *Washington Post*, 20 January 2023 <<https://www.washingtonpost.com/politics/2023/01/20/states-are-readying-flurry-privacy-bills-washington-stalls/>>

²⁹ Kirk J. Nahra, Ali A. Jessani and Samuel Kane 'State Comprehensive Privacy Law Update for 2023' Wilmer Hale 19 January 2023

³⁰ Kier Lamont, tweet 19 January 2023.

³¹ UN <<https://www.un.org/en/about-us/member-states>>

³² There are some countries which do not fit the requirements of a UN Member State, but do fit my criteria, for example Hong Kong SAR, Taiwan, the various Channel Islands, and some overseas territories of European countries, but they are few and not assessed.

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comprise the only region where no country has a data privacy law. A draft law has been prepared for Commonwealth countries, of which most of the nine are members. The rest of the 36 come from Africa (14), Asia (5), the Mid-East (3), the Caribbean (3) and Latin America (2). Many of these countries are the location of current or recent armed conflicts, and none are of high political or economic significance.

It seems likely that most of these countries without laws or Bills will eventually develop them, resulting in data privacy laws becoming ubiquitous³³ across the globe, probably within this decade.³⁴

Acknowledgments: David Banisar contributed valuable information for this article, but all content remains the responsibility of the author. This version of this paper has been amended to include the location of the Tables of Data Privacy Laws and Official Bills.

³³ Ubiquitous: so common as to approach being universal; or to appear to be universal.

³⁴ Another way of looking at these figures is that 57 countries do not have data privacy laws as yet (20 with Bills plus 37 without even Bills). Using this approach, we can say that 74% of all countries (162) have data privacy laws, whereas 26% (57) do not. Ubiquity is likely within the decade, from either perspective.