



Event Report

Consumer Awareness Workshop on Data Protection and Privacy & Impact of Personal Data Protection Bill, 2018

Jaipur | 18-19 July, 2019



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1. Introduction

CUTS International, a global policy research and advocacy organisation, organised a two-day consumer awareness workshop on '[Data Protection and Privacy & Impact of Personal Data Protection Bill, 2018 \(PDPB\)](#)' that was attended by approximately 40 people. Local consumer and civil society organisations undertook the training from reputed privacy experts. The training ended with a panel discussion on '*India's privacy protection policy: Will the consumers feel empowered or enraged*'. This discussion had representation from state's senior-level bureaucrats, and industry experts as well. (Agenda can be accessed [here](#).)

The workshop opened with welcome remarks by Udai Singh Mehta, Deputy Executive Director, CUTS. He stressed upon the importance of building capacity of consumers and civil society organisations with regard to data protection and privacy issues, particularly in tier II locations. He remarked that this workshop intends to help them further engage with citizens and policy makers productively on the data protection and privacy issues, and also help citizens put forth their perspective. He was very glad to witness the diverse participation from different cities, and areas of work.

2. Key Takeaways

- Onus should not be placed on the consumers to safeguard their data and privacy, as it can overwhelm them, and make them fearful. Privacy is a right for consumers, and should not be a burden.
- Language barriers need to be addressed for the law to be effectively understood and implemented.
- Knowledge-dissemination process needs to be decentralised and awareness building processes should make use of artistic ways to represent information for easy comprehension by all section of the society, especially among the less educated sections.
- Digital literacy should be advocated in educational institutes for children are coming within the fold of digital ecosystem at an early age and therefore more vulnerable to the risks and harms involved therein.
- Consumer's data should not only be protected against rogue actors but also authorized institutions. To enhance consumers trust, we may look at labels and marks that enable consumers to make an informed choice.
- Safety nets need to be provided for start-ups and small businesses, because of their crucial role as job creators. Large corporates and start-ups should not be measured on the same metric scale of compliance- adopting graded regulation may be useful.
- A bottom-up approach that factors in consumers at the grass root level seems to be the need of the hour. A rigorous assessment of the PDPB, especially in terms of its applicability would help make PDPB more efficient and effective.

3. Proceedings of the Workshop

3.1 Opening Session: Background and Context

Speaker: Swati Punia, Assistant Policy Analyst, CUTS

Swati gave a brief introduction to the topic of the workshop, whilst laying down the objectives and the expected learning outcomes. She presented facts, and figures on digital ecosystem, and highlighted news stories on data leaks, and data surveillance. Challenges and solutions emanating in this backdrop were discussed, wherein she mentioned about the PDPB and made participants aware of its key aspects. CUTS privacy survey results that gauged consumers perspective pan India on the use of digital technology were also shared. Moreover, the speaker had mapped the expectations of the participants before beginning the session that are as follows:

- To understand the basic concepts and to get a clearer picture of the risks and harms associated with the topic.
- To understand the economic loss or legal consequences arising out of the issue of data protection and privacy and the measures being undertaken in India to protect consumers.
- They expressed keenness to use the knowledge gained from the workshop to find solutions on the ground level. To also understand whether the solutions designed so far in India are synonymous with the diverse social cultural reality of India.
- To increase their own awareness and thereafter of others' about the value of their data.
- To understand ways to enforce and implement all the issues and solutions talked about in the workshop.

Digital users in rural India are increasing at a high rate due to internet penetration, cheap data packs and smartphones. Therefore, there is a dire need to spread awareness on data protection and privacy, as well as the harms and problems around it, particularly in tier II locations.

3.2 Session I: Consent and Notice

Speaker: Rishabh Bailey, Legal Researcher and Consultant, National Institute of Public Finance and Policy

The session centered around the concepts of Notice and Consent for the users under the PDPB. It intended to make the users aware of the framework for notice and consent and the importance of informed consent. The session was aimed at discussing the intent, purpose, and implication of such a framework under the PDPB. The session was furthered by a short in-conference exercise, where the participants were asked to read the Flipkart's Privacy Policy and subsequently answer a questionnaire.

- Privacy policies do only what is required by law, which means that a lot of things which are important are not dealt with. Most people, be it a graduate or undergraduate, fare poorly in rightly answering the questions based upon the

privacy policies, as per a study conducted by the National Institute of Public Finance and Policy (NIPFP).

- Concerns were raised by the participants that almost every consent and notice that they come across is usually in English, which eliminates the majority of the Indian population from understanding it. Issues such as lack of trust with the companies collecting the data and issue of verifiability were also discussed.
- One of the participants shared his view on how common/poor people are excluded by the lawmakers. He suggested that the ministry must share benefits of digital India with the poor and consider giving importance to protecting their data.
- Another participant shared her thoughts, that even higher education graduates are not aware of the risks and basics of data protection. The poor are affected largely as the marginal utility of 1 rupee is greater for the poor as compared to the rich. She suggested that art-based method can be introduced to make poor people aware and to make training effective and simple.
- One of the participants suggested that there should be a platform where the privacy policies must be approved by an authority before presenting it to the users.

3.3 Session II: User Rights and Entitlements

Speaker: Beni Chugh, Research Associate, Dvara Research

The session centered around the rights and entitlements of users under the PDPB. It intended to make consumers understand their meaning, usage (operation), and the possible legal and economic consequences associated with their usage. The session witnessed capacity building of the rights of consumers through interactive tools followed by participation from stakeholders through their real life experiences.

- With respect to user data there is an expectation that data be used only for the purpose for which it is collected. Not all kinds of data should be shared as some data is so sensitive that there is a need for affirmative action (double confirmation) as the user may not be aware of the implications. Additionally, there is an expectation of data deletion once the purpose is over. Data should not be stored indefinitely.
- Privacy is for the rich as the poor have more serious problems to deal with – this is a common perception, the speaker mentioned. However, with increasing digitization and inter-linkages, being aware of their rights in the digital ecosystem should be of prime importance for the poor. This is because of the vulnerabilities they may be exposed to, and may not have any means of coping with data privacy and protection breaches.
- Only when a user is aware of what is happening to their data can they take any action for or against it. Thus, the right to confirmation and access forms the foundation of all rights granted to users. It is only from this right, that the subsequent right to withdraw consent can be exercised.
- When talking about the right to correction, a participant shared her experience, that her name was misspelled on her Aadhaar and ration card, which disabled her from obtaining the ration, thus highlighting the importance of this right.

- Just like a trust score displayed on electrical appliances, perhaps there should be a trust score given to data fiduciaries which enables the consumer to make an informed choice in pursuing a particular service provider. Vernacular assistance should be provided to Data Principals at all levels.
- The PDPB mandates complaints against fiduciaries/ processors to be made in writing. However, considering the larger population of India is illiterate, this provision is debatable. In the event of a conflict of interest between the rights of data principals and the obligations of fiduciaries, does the former prevail over the latter?

3.4 Session III: Enforcement and Regulation

Speaker: S. Prasanna, Advocate, Supreme Court of India

The session centered around the enforcement and regulation regime under the PDPB. It intended to make consumers understand the redress mechanism, along with the procedure for filing a complaint, generating an inquiry, and going for appeal.

- The PDPB is harm oriented as it focuses too much on the loss suffered by the principals.
- The right of data protection has thus far remained a contractual right, as the government or state entities have no feet to interfere in matters of private contracts, or discuss the terms of such contracts. However, the introduction of PDPB as a law will convert such contractual right to a legal right, thus ensuring that consumers can invoke enforcement and remedy.
- It is important to move these rights from the realm of contract to the realm of law, as the same will act as a recognition of the rights of consumers for data protection and privacy.
- The PDPB should seek to meet a legitimate state aim; the proposed action should be necessary for a democratic society. There should be a rational nexus between the objective and the means adopted to achieve that objective.
- Questions regarding transparency, accountability and right to information in reference to PDPB were raised by some participants. The speaker stated that the Data Protection Authority and the government appears to have been given wide powers to provide overarching exemptions for a host of factors such that some data principal rights may end up getting significantly diluted, and practically rendering such rights meaningless.

3.5 Session IV: Role of data, consent, user rights in Digital Financial Services

Speaker: Srikanth Lakshmanan, Founder, Cashless Consumer

This session emphasized the need to focus on issues of consent and user rights in the context of increasingly digitizing financial services landscape. The speaker vividly described the concerns associated with digital financial services including online payments, KYC compliances, and insurance services among others.

- Before the address of the speaker began, there were insightful issues raised by some of the participants on the basis of their experience with digital banking and

financial system. The participants were made aware of data violations and ill practices in the digital world, to which they sought clarification on the role of the government as a guardian. In this context, it was highlighted that there could be both, ex-post and ex-ante approaches to tackle a situation of data and privacy breach. It was emphasised that the government needs to strike a fine balance between the concerns of privacy and its own accountability.

- The session highlighted the growing shift towards digital setup in all spheres of society, with increasing consumerism. Banking and financial services have also become increasingly digital and “cashless” would be the future reality.
- The participants highlighted concerns like flooding of their bank mobile number with subscription messages and even receiving alerts for someone else’s transactions.
- The notion that the consumer’s data should not only be protected against rogue actors but also authorized institutions was reiterated and so, the need for effective compliance of banking secrecy rules was highlighted.

3.6 Panel Discussion: Privacy Protection Policy of India: Will the Consumers Feel Empowered or Enraged?

Chair: Bhavana Sharma, Advisor TRAI

Panelists: Govind Sharma, Advisor, Chief Minister Rajasthan; **Ajay Data**, Founder and CEO, Data XGen Technologies; **S. Prasanna**, Advocate, Supreme Court of India; **Srikanth Lakshmanan**, Founder, CashlessConsumer; **Rishabh Bailey**, Legal researcher and Consultant, National Institute of Public Finance and Policy; **Beni Chugh**, Research Associate, Dvara Research; **Shagufta Gupta**, Director, CUTS International

The panel discussion on privacy protection policy of India explored the multi-dimensional aspects of data privacy and protection with the perspective of empowering the consumers and end-users of the digital world. The need for taking such discussions and efforts out from closed rooms to the ground level realities of the world and, in doing so, putting consumers at the focal point of policy matters was felt across the table.

Prior to the discussion, the participants informed the panelists of their learnings and takeaways from the training program. They also stated the issues within the PDPB that requires a thorough reality check and rigorous assessment. It was suggested, by the participants, to advocate for digital literacy in educational institutes for children are coming within the fold of digital world at an early age and therefore are more vulnerable to the risks and harms involved. Another participant added that the central and state authorities should help conduct such awareness workshop in order to sensitize the demography on the issues concerning data privacy in regional languages.

- **Mrs Bhavana Sharma:** The Chair of the panel highlighted the on-going efforts by government institutions to enable and empower consumers through outreach events. Consensus was built on the need to decentralize the knowledge-dissemination process and make the process more acceptable to the end users, including using artistic ways to represent information on complicated issues.

- **Mr. Govind Sharma:** The PDPB seeks to penalize those who wrongfully store and sell consumers' sensitive personal data. He acknowledged that there are some concerns over the implementation of the PDPB that needs to be looked into. And to ensure awareness and implementation in rural areas, the data protection authorities should have their offices in districts as well.
- **Mr. Ajay Data:** One of the factors which acts as a huge barrier is language; if the language problem is not addressed, setting up district offices will not be fruitful. Also, there is a need to provide safety nets for start-ups and small businesses, because of their crucial role as job creators. To measure large corporates and start-ups on the same metric scale of compliance is a cause of worry, he stated.
- **Beni Chugh:** There is a prevalent practice called graded regulation, where incentive-structure could be harmonized in a way so that small businesses are not at a disadvantage. She further flagged the need of "effective and accountable regulation" as the need of the hour. The intent of any government action, including the PDPB, should be regulating service providers to protect consumers.
- **S. Prasanna:** He urged everyone to reflect upon the phrase "free and fair digital economy" used in the preamble of the proposed legislation (PDPB). He raised questions on the language (phrases, terminologies) used in the preamble, as it doesn't align well with the interest of the consumers.
- **Rishabh Bailey:** He stressed on the need for striking a fine balance between under-regulation and over-regulation of consumer data, whilst talking about the flip side of misuse in the name of protection.
- **Shagufta Gupta:** Onus should not be placed on the consumers, as this can overwhelm them, and also make them fearful. One of the participants had floated the idea of banning certain social media platforms to curb data breaches, on the lines of the China model. She cautioned that envisaging solutions based on China's model in the Indian context would not make sense because the socio-political fabric of the two nations is very different.
- **Srikanth Lakshmanan:** He talked about State's duties and asserted that the State should take lead in presenting itself as a model data controller.

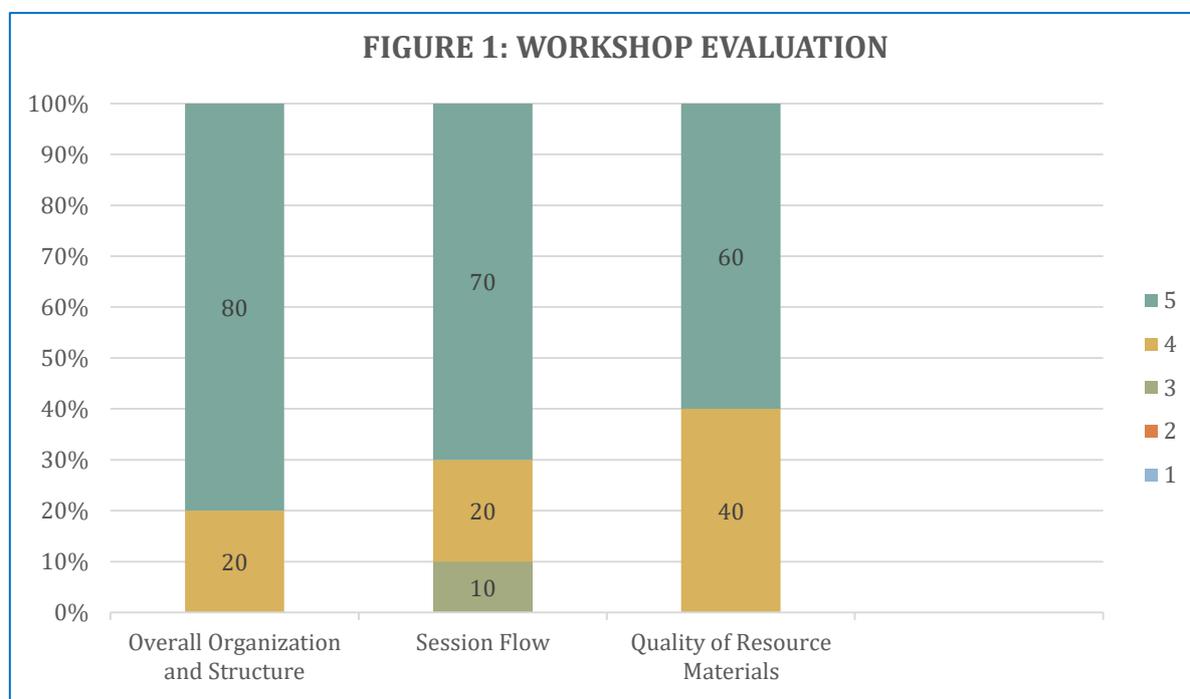
In concluding remarks, the panellists submitted that there is a need to address some of the vital concerns in the PDPB, keeping in mind the principles of consumer sovereignty and public interest. Safeguarding whistle-blowers in the digital regime was agreed upon as a major parameter, although there are certain intrinsic issues associated with it, which would need to be looked into.

A bottom up approach that factors in consumers at the grass root level is the need of the hour. In addition to that, language barriers also need to be addressed. For the law to be effectively understood and implemented, it has to be communicated in regional languages, and not just English. Additionally, it should be supplemented with training and outreach events that help educate and empower consumers, especially in tier II locations that are increasingly coming within the fold of digital ecosystem.

4. ANNEXURE 1: Feedback Form

The Feedback Form was divided into three parts. For part I and II, the participants were asked to rate the topics of the workshop and the various aspects of the sessions therein on a scale of 1 to 5, where 1 is equivalent to poor and 5 is equivalent to excellent.

4.1 Part I: Workshop Evaluation

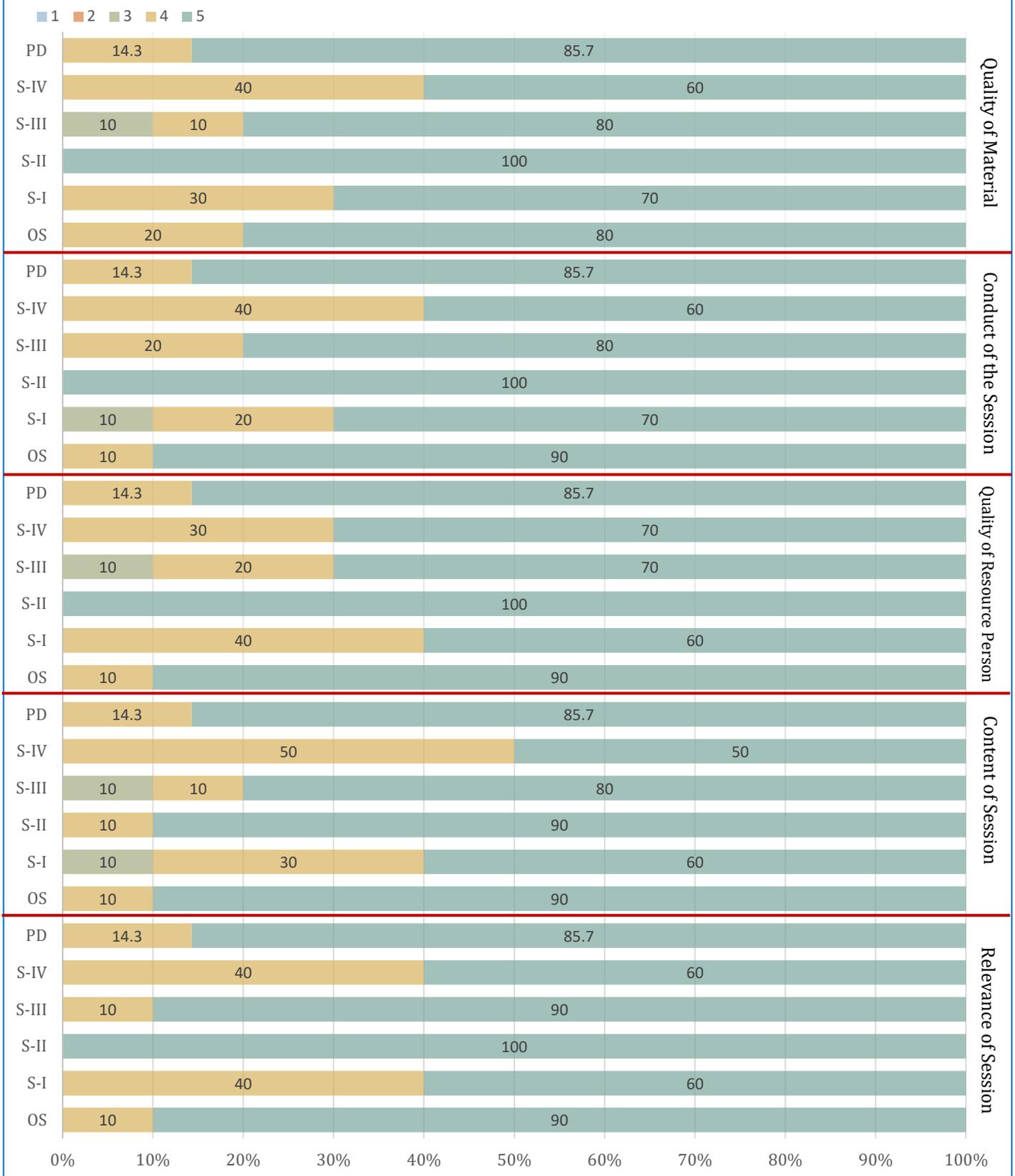


- Almost all the participants were exploring the topic of the workshop for the first time ever, but claimed to have developed an adequate understanding and knowledge of the topic.
- The participants expressed their willingness to learn more about the topic and the need to conduct more workshops. However, they were of the opinion that they would prefer a slow-paced session for certain issues which were technical in nature. Also, they would want the medium of instruction to be in the regional language (Hindi).

4.2 Part II: Sessions Evaluation

- The sessions were seen as extremely relevant, as participants recognized and understood the importance of the issues discussed during the training program. Although, most participants knew about right to privacy, they did little to safeguard their privacy as well as personal data due to lack of knowledge and understanding, until now. They vowed to practice more awareness.
- The participants liked the exercises and case study method during the sessions for it enabled them to relate to real life scenarios. The speakers tried to keep the sessions as simple as possible, chaffing out the technicalities and legalities attached to the issues, wherever possible.

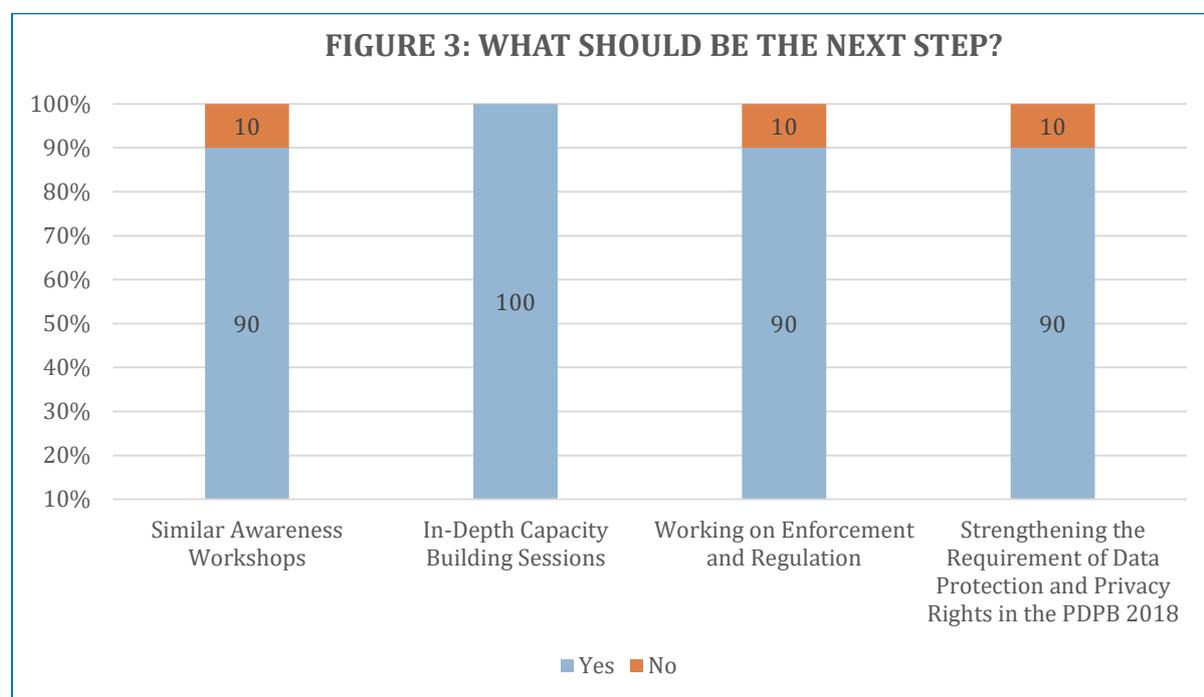
FIGURE 2: SESSIONS EVALUATION



OS: Opening Session
SI: Session I: Consent and Notice: Mr. Rishabh Bailey
SII: Session II: User Rights and Entitlements: Ms. Beni Chugh
SIII: Session III: Enforcement and Regulation: Mr. S. Prasanna
SIV: Session IV: Digital Financial Services: Mr. Srikanth Lakshmanan
PD: Panel Discussion

4.3 Part III: What should be the next step?

This section is an attempt to know whether the workshop was able to generate any substantial knowledge and interest in the field of data protection and privacy. Figure 3 gives an idea about participants' responses under this category.



- 100 percent of the participants feel the need to further this topic and increase its awareness through capacity building exercises.
- Despite coming from different backgrounds, regions, age, gender, and level of awareness, the participants were unanimous in wanting to build their capacity and awareness regarding the topic of the workshop. Not only did they understand the issues discussed but also realised the value of holding such awareness workshops that engages with consumer and civil society organisations at the grass root level.

5. ANNEXURE 2: Pre and Post Workshop Questionnaire

The purpose of the questionnaire was to understand whether there is any change in the perspective and understanding of the participants, before and after the workshop. Figure 4 gives a brief outline of how the participants fared on an average.

- The workshop did help better the understanding to some extent, although had certain limitations. We noticed a steady increase in the level of understanding of the participants through the type of questions raised, comments and suggestions made during the discussions.
- Lack of understanding can be attributed to the use of English language in the questionnaire, as a medium of instruction during the workshop, and non-availability of PDPB in regional languages. The participants asserted that despite

having the knowledge of English, they preferred their regional language i.e. Hindi. Facilitating Hindi as a medium of instruction was a challenge, as most experts in the field of privacy and data protection prefer English as a medium of instruction. However, all the experts made an earnest attempt to make use of Hindi throughout.

