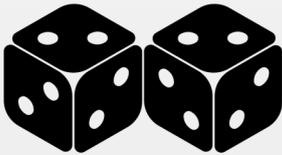




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Problem Statement





Problem Statement

1) Frugal Limited is one of the world's largest information technology companies in the world. It was started by two engineering students as a test-project of information aggregation in a small garage in Neon city in the Republic of Oceania in the year 1998. With the internet boom at the end of the 20th century, its services as a Search Engine Provider for content on the world-wide-web led to an unparalleled and meteoric rise. In the years that followed, Frugal developed a very wide range of operations in the field of information technology and communication. By the year 2017, some of the hats that it had donned as the global industry leader included:

- (a) Provision of internet search services;
- (b) Operation and maintenance of the social media platform "Chirkut" having a membership of over 3 billion persons from across the globe;
- (c) Manufacturing of electronic devices such as mobile phones, tablets, televisions, refrigerators; air-conditioners; watches, speakers etc.
- (d) Development and maintenance of the "Stardust" operating system (OS) for such electronic devices.

2) For the breakthrough innovations that Frugal had introduced to the world, the company had won the praise of one and all. From the year 2005, it was been listed consistently amongst the Top 10 Most Valuable Companies and Top 5 Most Influential Companies of the world in the prestigious annual survey conducted by Forkes Magazine.





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3) Towards the end of the year 2017 and after having a successful run at the very top of the industry for nearly two decades, the founders of Frugal Limited decided to hang up their boots and withdraw from the commercial world. In a post on their official page on Chirkut, they declared that they were embarking on their long contemplated journey aimed at understanding the very essence of life, in all its forms. However, recognizing the sheer size and diversity of Frugal's operations as well as the irreversible connection and impact that it had made in the lives of individuals, they decided to hand over the reins of the company to the Government of Oceania.

4) The Government of Oceania proceeded to nationalize Frugal Ltd and all its subsidiaries with effect from January 01, 2018. In a press conference held on the said day, the Chairman of the Ministry of Information and Broadcasting (I&B) declared:

“The Government of Oceania respects the dignity and the autonomy of the individual and it will go to great lengths to uphold it. We shall use the services provided by Frugal and its innovations to ensure that our citizens are safe, prosperous and at the forefront of technological development. What the State lacked in technology to implement its welfare schemes is more than compensated for by the vast infrastructure of Frugal.

The Government had promised to build efficient and sustainable smart cities, which use growing technology such as ubiquitous and artificial intelligence, the internet-of-things for the benefit of its citizens. That vision shall no longer remain in our hearts and minds, but it shall become a reality.

Our national capital, Paradise city shall be the first in the world to be converted fully into a smart city by the end of 2020.”



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5) Frugal's project of linking all its goods and services on its Stardust OS was already quite popular with the public by the time the Government decided to use it as a foundation for its smart city project. Frugal used the profile of individuals on its social networking program Chirkut as a means for accessing and customizing the use of each of its electronic devices (mobile phones, air conditioners, smart TVs etc.). These devices in-turn were synced with each other and shared the data and information of the persons who accessed them through their Chirkut account. This allowed Frugal to provide a unique experience to all persons, where electronic devices were customized to cater to their individual needs, tastes, character traits etc.

6) The information that an individual was required to provide at the time of creation of a Chirkut account included personal information such as name, sex, caste, religion, email id, preferred lifestyle options (music and movie choices, fashion choices etc.); preferred holiday destinations etc. Chirkut's "Privacy Policy" and "Terms of Use" informed users about the nature of the information sought from them at the time of creation of their profiles; the intended use of such information and the fact that users could withdraw such information from Chirkut by writing to Frugal in a specified manner.

7) The information so collected would then automatically provide customized and tailored services to users, to enhance their experience. For instance, the Frugal smart speaker would create playlists according to an individual's choice of music; Chirkut itself would offer display advertisements suited to an individual's choice of consumer products; the Smart AC would automatically change its internal settings in order to provide an individual with a weather experience according to his preferred holiday destination.



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Therefore, Frugal Limited had a significant amount of information concerning an individual for the purpose of providing a well-connected and omnipresent experience.

8) On January 15, 2018, the Government of Oceania adopted the “2020 Paradise Smart City” policy, whereby it laid down objectives, guidelines and created a mechanism towards the conversion of the national capital into a smart city. The project aimed at linking all major welfare and other programs and providing access to individuals through the unique ADHAAR ID.

The extent of the ambition of the Government was evident when it announced that even non-welfare programs would form part of their Smart city project. After all, the project was not aimed only at providing subsidies, since the Adhaar Act 2016 had already been enacted for this purpose. Services such as toll-booth collection were aimed at being fully automated with persons only needing to scan their fingerprints and retinas on devices provided at such booths. This biometric information would be matched with one’s ADHAAR ID and the necessary tariff would be deducted from the bank accounts which were linked with the ADHAAR.

Similarly, such biometric scanners were placed for different services by the Government across different platforms (domestic airports, petrol pumps, hospitals, movie halls, shopping malls, government authorized ration shops etc.)



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9) While this move by the Government was welcomed by many individuals, it was resisted and opposed by an equally large number of people as well. Seeing the Smart City project as the first step towards the creation of a surveillance state, the People's Union for Human Rights (PUHR) staged impressive and motivated protests and campaigned against the "2020 Paradise Smart City Policy". At one such protest march at the Corner Park on October 01, 2018, the president of the PUHR, Ms. Marie Dawson stated:

"This Government comes up with uninspiring means to track individuals and profile them under the garb of provision of social services. We have seen this happen from time immemorial and the Government has seen its plans fail, either by themselves or through the collective social effort of the PUHR and similar activist organizations.

The Smart City Program is a tool which will make so much of personal and sensitive personal information available at the mercy of the Government, that it can be used for political means of shaping personal views and values; influencing elections; stifling dissent and giving in to a dictatorial regime.

The ADHAAR Act, 2016 aims to provide social benefits and subsidies to individuals, but it cannot be indirectly extended to other walks of life where the individual is required to voluntarily give up his autonomy and privacy in exchange for frivolous and unnecessary benefits."

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10) As the protests against the Smart City Project grew in intensity, the Government of Oceania issued a public statement on November 01, 2018 recognizing the importance of the privacy of individuals. Stressing on the fact that collection of information was necessary to provide high-level services to individuals; the statement declared that the President had promulgated the Personal Data Protection Ordinance 2018, whose provisions are pari materia to those of the Personal Data Protection Bill 2018 which is currently tabled in Parliament.

The Government clarified that all collection and processing of information was to be performed strictly in accordance with the provisions of the Ordinance, 2018. However, in order to avoid a repetition of action and incurring extra expenditure Notification which introduced the Ordinance also specified “All data of individuals which has already been collected and processed prior to November 01, 2018 shall be construed as having been done so in accordance with the provisions of the Personal Data Protection Ordinance, 2018.”

11) This move by the Government added fuel to the already blazing fire and several thousands of social activists, including members of the PUHR took to the streets to demand that the Smart City Project, the Personal Data Protection Ordinance 2018 and all other actions taken in their pursuance be reversed. Claiming that the data of more than 60% of the residents of Paradise City had already been collected on the basis of the ADHAAR Act, 2018 and their voluntary membership of Frugal much before November 01 2018. Therefore, they claimed that the actions of the government were mere cover-ups and afterthoughts and contrary to due process and the rule of law.

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12) Meanwhile, a sitting Member of the Legislative Assembly in the Union Territory of Paradise City, Mr. Brave Mathews was leading a political operation aimed at highlighting the alleged hypocrisy of the dissenters of the Smart City Project. Owing to the extensive research that he had performed in understanding the nuances of protection of one's private information and balancing such privacy with the interests of the nation, he was made the Chairman of the Data Protection Authority that was created under the Ordinance of 2018.

13) With the Government and the PUHR under the leadership of Ms. Dawson throwing jabs at each other over this issue, where passions were equally high on either side, Mr. Brave Mathews declared that he had access to the truth which would expose the reality of Ms. Dawson and many others who aligned with her. On November 17, 2018, in a post on Chirkut's (as maintained by Frugal) home page, Mr. Mathews stated:

“..... Ms. Marie Dawson inspires millions to support her endeavour of scrapping the Smart City Project and the Data Protection Ordinance, 2018 under the disguise of being a supporter of human rights. The truth however is very different.

As part of the collection of information of Ms. Dawson's profile, we have gained access to messages and chats that she has had with other individuals in the past. Ms. Dawson has a rich track record of defaulting on payments to private vendors, who have written to her repeatedly requesting that their money be returned. However, these requests remain unattended to till the present day.



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More shockingly, she is a power-driven individual whose life is surrounded by the mysterious death of her mentor, Mr. Bo Riddley, the renowned social campaigner. Posts from the relatives of Mr. Bo Didely questioning Ms. Dawson's intentions in failing to assist the police authorities in the search operation of Mr. Didely's body and in not pressing for a post-mortem when the body was finally recovered in the woods all go on to show that Ms. Dawson has much to hide..."

14) This post caused a huge uproar amongst the members of the PUHR and general civilians who were supporting Ms. Dawson and PUHR in their initiative against the invasion of individual privacy. Several civilians wrote on their Chrikut accounts that they were backing out of the protests and were disgusted that they were hoodwinked by Ms. Dawson, who was nothing but just-another-politician.

15) A few weeks passed before Ms. Dawson wrote an open letter claiming :
"... The Government thought that it had an ace up its sleeve with its post of November 17 2018. However, they have clearly axed their own foot and don't even know it yet. The state machinery has become so robotic and rotten that it cannot tell pain from pleasure and victory from loss.

It is shameful for the Government to invade my private account under the garb of making services available to me and then reveal deeply personal aspects of my private life to the world at large. The claims made by Mr. Matthews are mere allegations which have not been proven in any court of law. There is nothing for me to hide.





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I am a public figure, but that gives the Government no right to use my information and pass it off as furthering the interests of the State. These statements are defamatory and the Government will have to answer for its increasingly invasive and draconian ways.

I have written to Ms. Matthews in his official capacity several times, invoking my right to have all my information collected by the Authority deleted from all servers in totality. However, he has repeatedly refused to do so stating that the information on Chirkut represented his personal views and those of others and he had fundamental right of free speech, which could not be crushed through hypocritical activism.

Insofar as the Smart City Project and the alleged provision of state-of-the-art services to individuals is concerned, let me remind one and all that we are not the cars we drive or the clothes we own or the food we eat. We are who we choose to be in this world. Hear me and support me in crushing this evil initiative of the Government. The mere provision of some consumerist facilities at the click of the button does not justify compromising on one's autonomy. Remember, the things you own, they end up owning you."

16) As the PUHR and Ms. Dawson geared up for a legal battle, media reporters managed to find the erstwhile owners of Frugal Limited in their exile deep into the Himalayas. When asked whether their decision to hand over the reins of Frugal to the State machinery was made in haste and was a mistake, they claimed that Chirkut was merely an intermediary and a platform for sharing of information by third party entities.





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In their opinion, the fight was between the Data Protection Authority, some wings of the Government and social activists and Frugal had to be kept out of the legal battle since it was a neutral platform. However, they claimed that that they had remained connected on their Chirkut accounts despite their exile explaining that staying connected was not that easy to shake off. Therefore, they had read news reports where Ms. Dawson and PUHR had claimed that the Government, the Data Protection Authority as well as Frugal (and Chirkut) had violated their fundamental right of privacy, right to life and dignity and had defamed Ms. Dawson.

17) The Hon'ble Supreme Court of Oceania has admitted two writ petitions, one filed by Ms. Dawson claiming the violation of her fundamental right and one filed by PUHR challenging the vires of the Smart City Project, the Data Protection Ordinance and the collection of information (including assimilation of personal information collected prior to November 01 2018 by the Data Protection Authority). The Apex Court has issued notice to the Respondents and has listed the petition for final hearing on 5th-6th January 2019.

