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## IMPACT OF DIGITAL PERSONAL DATA PROTECTION ACT (DPDP) ACT, 2023

### ABSTRACT

**“Privacy is not an option and it shouldn’t be the price we accept for just getting on internet” - Gary Kovacs**

### **"Digital Personal Data Protection Act, 2023:**

- Significant legislative development in India.
- Aims to establish comprehensive data protection and processing framework.
- Highlights provisions, implications, and potential challenges.
- Abstract provides concise summary of research.
- The Indian Digital Personal Data Protection Act, 2023, has gained European attention due to its potential to not meet the EU GDPR's "adequacy" requirements. The law, which addresses data protection in India, may require special safeguards for data flows between the EU/EEA and India, as details remain unclear through subsidiary legislation.

### KEYWORDS

**DIGITAL, PERSONAL, DATA, PROTECTION**

### INTRODUCTION

#### **DPDP Act Overview**

Introduced in Lok Sabha on August 3, 2023. Passed by both Lok and Rajya Sabha. Received Presidential assent on August 11, 2023. Addresses digital personal data processing. Recognizes individual rights and allows lawful data processing. Applies to data processed within India and outside for services offered within the country. Highlights the Supreme Court's recognition of privacy rights and recommendation for data protection legislation.

#### **In context of Digital Personal Data Protection Act, 2023**

#### **Rules Under Information Technology Act, 2000**

- Rights To Citizens

The digital personal data Protection Act 2023 extends to citizens right beyond the existing rights given under information technology act 2000

- The Right To Information
- The right to correction and erasure personal data
- The right to legal aid in case of in capacity of representation
- Previously the personal data protection was governed by section 43a of Information technology Act 2000 which is now ruled by digital personal data Protection Act 2023

- Balancing rights and processing purposes

It is very important to balance personal right and legitimate data processing so, this act recognises the individual rights to protect personal data and the need of such data for lawful purposes.

### **Constitution Framework**

- Definition Of Personal Information

The statute introduces a broad definition of personal information which encompasses the data controller which referred to as data fiduciaries in digital personal data Protection Act 2023.

**ANY INFORMATION + RELATING TO + AN IDENTIFIED OR IDENTIFIABLE + NATURAL PERSON = PERSONAL DATA**

- Data Subject Right

Individuals have the right to protect their personal data and they can access, delete and even transfer the data of their data as per their needs.

- Cross Border Data Transfers

It is very important for any developing country to transfer their data beyond their own boundaries but it comes with the possibilities of limitation on these transpiration the data controllers have to ensure and secure specifically the use of data in a Lawful manner across borders.

- Safeguarding Personal Data

Data controllers have obligations which is the duty to safeguard personal data as for the requirements including obtaining consent, accurate data storage and using data only for specific purpose.

- Balancing privacy rise and digital economy growth

Digital Personal Data Protection Act 2023 aims to strike a balance between individual privacy right and facilitating the growth of digital economy.

### **Other Indian Laws With Data Protection Provision**

- Applicability

The Digital Personal Data Protection Act applies to the data which is Digitally Personalized within India collected online or offline. It also extend to the data processing which happened outside and involves good and services within India.

➤ Cross Border Data Transfer

This Digital Personal Data Protection Act established a negative list of rules for cross border data transfer data localization rules which are transfer across jurisdiction unless specifically notified.

## **Rights And Obligation**

➤ Data Principles Right And Duties

Data principle that are individuals have right over the personal data including the right to access rectify and raise data they also have the duty to provide accurate information and report on any type of breaches.

➤ Data Fiduciaries Obligations

Data fiduciaries that is the entities processing data was compelled the data protection norms, inshort this data security and maintain record they required to enter into data processing agreements before outsourcing activities to the third party.

## **UNIVERSAL DECLARATION OF HUMAN RIGHTS**

The Digital Personal Data Protection Act 2023 in India aims to established a comprehensive data while it doesn't directly refer to The Universal Declaration Of Human Rights.

➤ Equal Protection Of All Data

The digital personal data Protection Act 2023 give the equal merit prediction to all digital personal data as it doesn't categories any data as sensitive or critical, University Declaration Of Human Rights emphasizes that all inter visuals are entitle to equal protection of their rights regardless of any distinctions.

➤ Rights of data principles

Data Principles that are Individuals with data possess specific rights under the DPDP Act.

➤ Right to Information that is Data Principle can obtained information about data processing.

➤ Correction and Erasure that is Data Principles can see corrections and erasure of their personal data.

➤ Nomination of representatives that is in case of incapacity or death, the Data Principles can nominate someone else to exercise their rights.

➤ Universal Declaration Of Human Right connection that is universal declaration of human right organises the right to privacy and the right to access information.

➤ Duties of data fiduciaries

- Transparent Disclosure, Safeguarding Personal Data, Grievance Redressal.

- University Declaration Of Human Rights in connection has recognize the right to privacy and the need to protect personal data across borders also and its provision has fundamental principles of privacy.

### **Background:**

- Object And Applicability
- The primary objective of data the primary objective of digital personal data protection act 2023 is to established your comprehensive framework for the protection and processing of personal data which recognises both the rights of the individual to protect the personal data and the need to process such data for lawful purposes this act applies to the processing of personal data in India both online and offline it also extend to the processing of such data outside India when related to offering goods and services with in India.
- **Data:** Any representation of information facts concepts opinions and instruction that can be communicated interpreted and process by humans or automated means.
- Personal Data: refers to data about an individual that is the data principle that is identifiable by or in relation to sach data.
- This artery places substantial obligations on entities collecting personal data introduces concept like consent managers data localisation and trees for non compliance.
- It is establishes and all power data protection authority with preventive mechanism.
- **The Landmark Judgement In Case Of Justice KS Puttaswamy V. Union Of India 2017 case** which is the historic ruling the Supreme Court of India recognise the right to privacy as a fundamental right protected under article 21 and part 3 of Indian constitution this decision was delivered by 9 judge bench on August 24 2017 the case was initiated by Justice KS Puttaswamy (Retd.) and another petitioner it challenge the validity of Aadhar, India's union identification system on the ground of privacy in infringement. The court word it fame that each into which has the constitutional right to privacy which end exercise that being unique is most significant then being the best this judgement has far reaching implications and has been shaping privacy laws and policy in India and it underscores the importance of safeguarding citizens privacy right in a digital age.
- **Act Overview:**
  - Balancing Individual Privacy Rights and Data Processing.
  - Covers both online and offline data.
  - Supports India's adoption of AI technologies.
  - Explains the need for data protection laws in the digital age.
  - Discusses incidents leading to the formulation of the DPDP Act.
- **Objectives:**
  - Balances individual rights and lawful data processing.

➤ **Scope**

Describes the Act's applicability to personal data within and outside India.

➤ **Legal Context:**

- Highlights the Supreme Court's recognition of privacy rights and recommendation for data protection legislation.

➤ **Salient Features:**

- Defines data, including personal data.
- Discusses rights granted to data principals.
- Describes the processing framework for lawful data processing, consent, and compliance.
- Addresses provisions related to data localization.

Introduces clear rules for data protection emphasizing consent, transparency, and compliance. Uses gender-neutral pronouns for the first time in India.

Aligns with the Supreme Court's recognition of privacy as a fundamental right.

**Impact Areas:**

- Discusses the Act's impact on various organizational functions.
- Analyzes the Act's impact on consumer rights and privacy protections.
- Highlights challenges and opportunities for businesses in complying with the Act.
- Legal, IT, HR, sales, marketing, procurement, finance, and information security will be affected.
- Brands must obtain explicit consent for personalized marketing.

**RESEARCH METHODOLOGY**

This paper is of descriptive nature and the research is based on primary and secondary sources for the extensive analysis of the Impact of Digital Personal Data Protection Act, 2023. Primary sources such as Case Laws, Statutes and Secondary Sources such as Books, Journals and Articles.

**Review of literature**

The review aims to varied perspectives to respond on Impact Of Digital Personal Data Protection Act, 2023. It highlights the importance of structural factors.

**Method**

As the paper is based on theoretical aspects so the method used for the research paper is based on Primary and Secondary Sources.

## **SUGGESTIONS**

### **Act Compliance and Data Protection Strategies:**

- Employee education on Act provisions and compliance.
- Implementation of robust data protection practices and policies.
- Adoption of special safeguards for EU/EEA data transfers to India.
- Proposal of strategies for employee awareness and training.
- Recommendation of best practices for data governance, risk assessment, and compliance.
- Suggested consent mechanisms for data collection and processing.
- Addressing cross-border data transfers and international collaboration.
- Advocate for collaboration with regulatory authorities.

## **CONCLUSION**

### **DPDP Act: Progress and Challenges**

Uncertainty over DPDP Act's adequacy in meeting EU GDPR requirements.

Need for dialogue and fine-tuning for effective data protection and innovation.

Exploration of Act's implications in library context.

Early assessment, further developments may occur.

Reflection on potential impact on India's data ecosystem, individual rights, and business practices.

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