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Q10

Describe the context and salient feature of Digital Personal Data Protection Act 2023.

UPSC Civil Services Mains 2024 · GS III · 10 marks · Indian Economy

Indian Economy and issues relating to planning, mobilization of resources, growth, development and employment.

Core demand of the question

- Describe the context that produced the **Digital Personal Data Protection Act, 2023**
- **State its salient features:** who is covered, rights, duties, Board and exemptions
- Keep privacy as a right that still meets lawful State access

Revision summary

The **DPDP Act, 2023**, follows the Puttaswamy privacy judgment and replaces a thin IT Act patch.

- **It regulates digital personal data:** Data Principals, Data Fiduciaries, consent and some legitimate uses.

Rights include access, correction, erasure, nomination and grievance redress; children get extra protection.

A **Data Protection Board** can penalise; Significant Data Fiduciaries carry heavier duties.

The Union may exempt State agencies on security and related grounds, which is the main rights tension.

Introduction

India's data economy grew faster than its **privacy statute**. After **Justice K.S. Puttaswamy v. Union of India** (2017) held privacy to be a **fundamental right**, a long draft trail - Justice Srikrishna, several bills, and the withdrawal of the 2019 Bill - ended in the **Digital Personal Data Protection Act, 2023**. The context is **Aadhaar-scale databases, platform power and a Court that asked for a law. The Act is that law: shorter than the 2019 draft, and still a first national code for digital personal data.**

Body

Context

Puttaswamy required a **proportionate, legal and legitimate** basis to touch personal data. India already had **IT Act section 43A** and **SPDI rules: a thin, harm-after-the-fact patch**. **Europe's GDPR** raised the bar for any firm that wanted EU custom. Domestic politics wanted **ease of doing digital business** as well as a privacy promise. The 2023 Act therefore sits between a **rights judgment** and a **growth agenda**: consent as the default, a Board instead of a heavy multi-regulator, and **wide Union exemptions**. That last piece is why rights groups still argue the Act is incomplete. It is nonetheless the **salient legal fact** students must know.

- **Peg:** **Puttaswamy (2017)** is the constitutional parent; the 2023 Act is the statutory child.
- **Peg:** The older 43A/SPDI regime did not create a **Data Protection Board** or a clear set of principal rights.

Salient features

The Act covers **digital personal data** processed in India, and some processing abroad if it offers goods or services in India. A **Data Principal** is the individual. A **Data Fiduciary** decides purpose and means. **Consent** must be free, specific, informed, unconditional and unambiguous, with a notice. **Certain legitimate uses** (including some State uses specified in the Act) allow processing without that consent track. Principals get rights to **access, correction, erasure and grievance redress**, and a right to **nominate** in case of death or incapacity. **Children's data** has extra care, including a bar on tracking or targeted ads in the terms the Act sets. **Significant Data Fiduciaries** may be designated for extra obligations (data protection officer, audits, impact assessment). A **Data Protection Board of India** is to inquire and impose **financial penalties**. The Union may **exempt** agencies of the State in the interests of sovereignty, security, public order and similar grounds listed in the Act. **Cross-border** transfer is allowed except to countries the Union **restricts by notification**. The design is therefore **principle-plus-Board**, not a GDPR photocopy. The live tension is **security and administration versus the Puttaswamy tests** of necessity and proportionality - technology with governance, not technology as an exemption.

- **Peg:** Consent, legitimate uses, **Significant Data Fiduciary** duties, and the **Data Protection Board** are the working spine.
- **Peg:** Section-style State exemptions are the rights critique: a privacy Act that the State can step around still needs Puttaswamy in court.

Flow diagram

Puttaswamy 2017 -> DPDP Act 2023
DPDP Act 2023 -> Data Principal rights
DPDP Act 2023 -> Fiduciary duties
DPDP Act 2023 -> Data Protection Board
State exemptions -> DPDP Act 2023

Conclusion

- **DPDP 2023 answers Puttaswamy with a digital-personal-data code:** principals, fiduciaries, consent, a Board and penalties. It also leaves broad State exemptions. The Act is a start. Whether it protects privacy will depend on rules, the Board's spine, and how those exemptions are used.

Facts & figures

Puttaswamy, 2017

Nine-judge Bench: privacy is a fundamental right; any intrusion needs legality, legitimacy and proportionality.

DPDP Act, 2023

India's principal statute on digital personal data, passed after earlier bills were dropped or recast.

Data Principal / Fiduciary

The individual whose data it is, and the entity that decides why and how it is processed.

Data Protection Board

The statutory body to be set up to inquire into breaches of the Act and levy penalties.

Significant Data Fiduciary

A class the Union may notify for extra obligations such as a DPO, audit and impact assessment.

Cross-border

Transfers are generally allowed except to countries placed on a restriction list by the Union.

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