



## **A Critical Analysis Digital Personal Data Protection Bill 2022**

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### **Abstract:**

The Digital Personal Data Protection Bill 2022 represents a pivotal legislative effort by the Indian government to establish a comprehensive framework for the protection of personal data in the digital age. This critical analysis evaluates the bill's key provisions, strengths, and potential areas of concern. The bill introduces significant measures such as the establishment of a Data Protection Authority, guidelines for data processing and storage, and rights for data principals including consent, correction, and grievance redressal mechanisms. While the bill is commendable for its attempt to balance individual privacy rights with the need for data-driven innovation, it faces criticism regarding certain aspects such as the extent of government exemptions, potential overreach in surveillance, and the adequacy of proposed penalties for non-compliance. Furthermore, the analysis considers the bill's alignment with global data protection standards and its implications for stakeholders, including businesses and consumers. Through a detailed examination of its provisions and potential impact, this analysis aims to provide a comprehensive understanding of the bill's efficacy in safeguarding digital personal data while fostering a secure and trustworthy digital environment in India.

**Keywords:** Digital Protection bill 2022, DPDP Bill 2022, GDPR, Data Protection Law, Privacy Law

### **A. Introduction**

The Digital Personal Data Protection Bill 2022 marks a significant milestone in India's legislative journey toward safeguarding the privacy and security of personal data in the digital era. With the rapid proliferation of digital technologies and the exponential growth in data generation, the need for robust data protection laws has become increasingly critical. The Bill aims to create a comprehensive framework that governs the processing of personal data, thereby ensuring that the privacy of individuals is protected while also promoting the responsible use of data for innovation and economic growth.

At its core, the Digital Personal Data Protection Bill 2022 seeks to strike a delicate balance between individual rights and the interests of various stakeholders, including businesses, government entities, and data fiduciaries. One of the cornerstone features of the Bill is the establishment of a Data Protection Authority (DPA), an independent regulatory body tasked with overseeing data protection practices, ensuring compliance, and addressing grievances related to data breaches and misuse. The DPA is envisioned to play a crucial role in enforcing the provisions of the Bill and fostering a culture of accountability among data handlers<sup>1</sup>. The Bill outlines clear guidelines on data processing activities, emphasizing the principles of transparency, accountability, and consent. It mandates that data fiduciaries obtain explicit consent from individuals (referred to as data principals) before collecting, storing, or processing their personal data. This consent must be informed and freely given, empowering individuals to make educated decisions about how their data is used. Additionally, the Bill grants data principals several rights, including the right to access their data, the right to correct inaccuracies, the right to data portability, and the right to be forgotten, thereby enhancing their control over personal information.

However, the Bill is not without its controversies and criticisms. One of the primary concerns raised by privacy advocates is the broad exemptions granted to government agencies, which could potentially lead to misuse and overreach. The Bill allows the government to exempt any of its agencies from the provisions of the law in the interest of sovereignty, public order, or security, raising fears of unchecked surveillance and erosion of privacy rights. This aspect of the Bill has sparked a debate about the balance between national security and individual privacy<sup>2</sup>. Moreover, the Bill's provisions on cross-border data transfers and data localization have significant implications for multinational corporations and the global digital economy. By imposing restrictions on transferring personal data outside India and requiring certain categories of data to be stored locally, the Bill aims to enhance

<sup>1</sup> A. (2023). The digital personal data protection bill 2022 in contrast with the eu general data protection regulation: a comparative analysis. *International Journal for Multidisciplinary Research*, 5(2). <https://doi.org/10.36948/ijfmr.2023.v05i02.2534>

<sup>2</sup> Ghosh, S. (2023). Sanctity of digital privacy and personal data during covid-19: are youths enough digitally literate to deal with it?. *digital Education Review*, (43), 131-150. <https://doi.org/10.1344/der.2023.43.131-150>

data security and sovereignty. However, these measures have raised concerns about the potential impact on global business operations and the risk of creating data silos that could hinder international data flows.

Digital Personal Data Protection Bill 2022 represents a crucial step toward establishing a robust legal framework for data protection in India. It addresses the pressing need for privacy safeguards in an increasingly digital world while attempting to balance the interests of various stakeholders. As the Bill progresses through the legislative process, it will be essential to address the concerns and criticisms raised by experts and stakeholders to ensure that it effectively protects individuals' privacy rights without stifling innovation and economic growth. The successful implementation of this Bill could set a precedent for data protection legislation in other emerging economies, making India a key player in the global discourse on data privacy and security<sup>3</sup>.

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## B. Literature review

On December 1, 2022, the Observer Research Foundation held a discussion about the Digital Personal Data Protection Bill, 2022. Stakeholders from platforms, startups, civil society, consultancies, and academia shared their feedback on three main topics. Firstly, the Bill allows multiple parties, including third-party organizations, to collect and keep data with "deemed" consent. However, these third-party organizations are not clearly held accountable for data security, which has led to significant data breaches in the past five years. It's crucial to address the accountability of these third parties, even though the government is exempt from the Bill. Secondly, the current draft of the Bill removes the category of sensitive personal data, such as biometric, financial, and genetic information, which used to require extra protection. This change seems to reduce the protection for personal data. Lastly, India has been emphasizing data localization in international discussions, promoting digital sovereignty based on data at the United Nations. The Bill's removal of broad localization requirements aligns India with international partners. Instead, the Bill states that the central government will choose approved countries or territories after an assessment, but it does not specify the criteria for this assessment<sup>4</sup>. Khayati Anand (2023), The DPDP Act aims to enhance accountability and responsibility for entities in India, including internet companies, mobile apps, and businesses that collect, store, and process personal data. It emphasizes the "Right to Privacy," ensuring these entities operate transparently and are accountable for handling personal data, thereby prioritizing the privacy and data protection rights of Indian citizens. Additionally, the Act's scope extends internationally, covering digital personal data processing by organizations outside India that offer goods or services to Indians or profile Indian citizens, thereby strengthening data protection for Indian citizens' data globally<sup>5</sup>. Tushar Yadav et.al (2024), The Act imposes various obligations on organizations that collect personal data. These include providing notice and obtaining consent from individuals, ensuring data accuracy and secure storage, and using the data only for the specified purposes. Organizations must also delete data once its purpose is fulfilled and grant consumers rights to access, erase, and transfer their data. Businesses are required to maintain strong security measures, adhere to transparency standards, implement "privacy by design" principles, and establish grievance redressal systems. Additionally, the Act introduces the Data Protection Authority (DPA), which has the authority to penalize businesses that fail to comply with the regulations<sup>6</sup>.

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## C. Objectives of the Research

The objectives of the research are to know implementation, impact and future concerns digital data protection bill 2022. DDPB will be great a point of debate in the coming years as it was debated in the parliament while passing of the bill. DDPB will play a crucial role in the curbing of data and its usage by corporate and multinational one breach can lead to severe penalty. And specially the usage of personal data for government purposes on what all circumstances it can be used for the benefit of individual and against.

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## D. Research Methodology

The researcher has gathered the data from various books, newspaper articles, magazines, artificial intelligence blogs and gathered information through podcast and videos on digital data protection bill. This has given a good amount of information for this research to be used for getting the required amount of information on the data protection bill its impact, evolution and challenges in the coming years for the humans. The data protection bill will create and huge impact on the development of the society it can be positive as well as negative on the society.

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## E. Digital Personal Data Protection Bill 2022 its impact, future challenges and implementation.

The Digital Personal Data Protection Bill 2022 represents a pivotal advancement in India's regulatory framework concerning the privacy and security of personal data. Aimed at enhancing accountability and transparency, the Bill imposes stringent obligations on entities within India that collect, store, and process personal data. Its primary objective is to empower individuals with greater control over their data while establishing clear guidelines for businesses to follow. The impact of the DPDP Bill is multifaceted. Firstly, it mandates that organizations must inform individuals about data collection,

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<sup>3</sup> Sindakis, S. (2024). The digital revolution in india: bridging the gap in rural technology adoption. *Journal of Innovation and Entrepreneurship*, 13(1). <https://doi.org/10.1186/s13731-024-00380-w>

<sup>4</sup> <https://www.orfonline.org/research/the-draft-digital-personal-data-protection-bill-2022-recommendations-to-the-ministry-of-electronics-and-information-technology>

<sup>5</sup> <https://www.india-briefing.com/news/indias-digital-personal-data-protection-act-2023-key-provisions-29021.html/>

<sup>6</sup> <https://www.livelaw.in/lawschool/articles/cyber-law-data-privacy-digital-data-protection-act-right-to-be-forgotten-silenced-voices-information-technology-act-261014>

obtain their consent, and use data only for specified purposes. This not only ensures transparency but also strengthens trust between businesses and consumers. Additionally, the Bill introduces rights for individuals to access, correct, erase, and transfer their data, empowering them to manage their digital identities effectively. By promoting "privacy by design" principles and mandating robust security measures, such as encryption and data anonymization, the Bill sets a higher standard for data protection practices across sectors<sup>7</sup>. However, implementing the DPDP Bill comes with significant challenges. One major hurdle is the sheer diversity and scale of businesses in India, ranging from large corporations to small startups and microenterprises. Ensuring compliance across this spectrum demands tailored approaches and supportive frameworks, particularly for smaller entities with limited resources and expertise in data protection. Another challenge lies in the international dimensions of data processing. The Bill extends its jurisdiction to include foreign entities that handle Indian citizens' data, posing complexities in enforcement and coordination across borders. Effective mechanisms for international cooperation and compliance monitoring will be crucial for enforcing the Bill's provisions globally<sup>8</sup>. Moreover, the establishment and operational effectiveness of the Data Protection Authority (DPA) will be pivotal. The DPA, tasked with overseeing compliance, handling complaints, and imposing penalties, must be equipped with sufficient authority, resources, and expertise to fulfill its mandate effectively. Building public awareness and understanding of data rights and the DPDP Bill's provisions will also be essential to ensure widespread adoption and adherence. While the DPDP Bill 2022 promises significant benefits in terms of data privacy and security, its successful implementation hinges on addressing various challenges. From ensuring universal compliance across diverse sectors to navigating international data flows and strengthening regulatory oversight through the DPA, proactive measures will be crucial. With robust implementation strategies and stakeholder engagement<sup>9</sup>, India can establish a modern and effective framework for digital personal data protection, setting a precedent for data governance in the digital age.

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## F. Conclusion

Digital Data Protection bill and its act will is set to play a transformative role in India's future, offering immense potential to drive economic growth, improve quality of life, and address societal challenges. However, realizing this potential requires addressing the existing challenges through concerted efforts from the government, industry, and academia. With the right policies, investments, and collaborations, digital data protection bill and its act can significantly contribute to India's journey towards becoming a technological powerhouse with safeguards and controlled nature of resolution in hand to curb the nuisance of the corporate and data leaks.

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