**DPDP Act 2023**

**(Digital Personal Data Protection)**

**History:**

* Personal data is information through which one can be identified or is related.
* These data are processed by business entities and govt agencies for delivery of goods and services.
* Currently in India data protection is regulated under the IT Act 2000.

**Features:**

* **Applicability:**
  + It applies to the processing of data which are:
    - Collected online
    - Collected offline and is digitized.
    - Personal data of outside India if it is processing goods and services in India.
* Processing of data has been defined as wholly or partially automated operation performed on digital personal data.
* It includes collection, storage, use and sharing.
* **Consent:**
  + A notice must be given before seeking consent including details of the personal data to be collected and the purpose of processing.
  + The consent can be withdrawn at any time.
  + Consent will not be required for (legitimate uses), i.e.:
    - Specified purpose for which data has been provided voluntarily.
    - Provision of benefit or service from the govt.
    - Medical emergency.
    - Employment
* **Right and duties of data principal:**
  + An individual whose data is being processed (data principal) will have the **right** to:
    - Obtain information about processing.
    - Seek correction and erasure of personal data.
    - Nominate another person to exercise rights in the event of death or incapacity.
    - Grievance redressals.
* **Duties** of data principals:
  + Must not register a false complaint.
  + Must not furnish any false particulars or impersonate another person in specified cases.
* Violation Penalties: ₹ 10,000.
* **Obligation of data fiduciaries:**
  + Data fiduciary: Entities determining means and purpose of processing, must:
    - Make reasonable efforts to ensure accuracy and completeness of data.
    - Build reasonable security safeguards to prevent data breach.
    - Inform Data Protection Board of India and the affected person in the case of breach.
    - **Storage Limitation:** Erase personal data as soon as the purpose has been met and retention is not necessary.
* In case of govt entities, storage limitation and right of the data principal to erasure will not apply.
* **Transfer of Personal data outside India:**
* The bill allows transfer of data to outside countries, except the countries restricted by the central govt.
* **Exemptions:**
  + Rights of data principal and data fiduciaries will not apply in cases:
    - Prevention and investigation of offences.
    - Enforcement of legal rights or claims.
* Central govt may exempt, by notification, certain activities from application of bill:
  + Processing of data by govt in interest of security of state and public order.
  + Research, archiving and statistical purpose.
* **Data Protection Board of India:**
  + Key Functions:
    - Monitoring compliance and imposing penalties.
    - Directing data fiduciaries to rake measures in the event of breach.
    - Hearing grievances made by affected persons.
* Appointed for 2 years are eligible for re-appointment.
* Appeals against the decision of the boards lie with TDSAT (Telecom Department).
* **Penalties:**
  + Up to ₹200 crore for non-fulfilment of obligations for children.
  + Up to ₹ 250 crore for failure to take security measures to prevent data breaches.

**Key Issues:**

* Exemptions of data processing by the state on the ground of national security may lead to data collection, processing and retention beyond what is necessary. This may violate the fundamental right to privacy.
* The bill does not regulate risks of harms arising from processing of personal data.
* Bill does not grant the right to data portability and the right to be forgotten to the data principal.
* The bill allows transfer of data to other countries (except notified). This may not ensure adequate evaluation of data protection standards in countries where transfer of personal data is allowed.