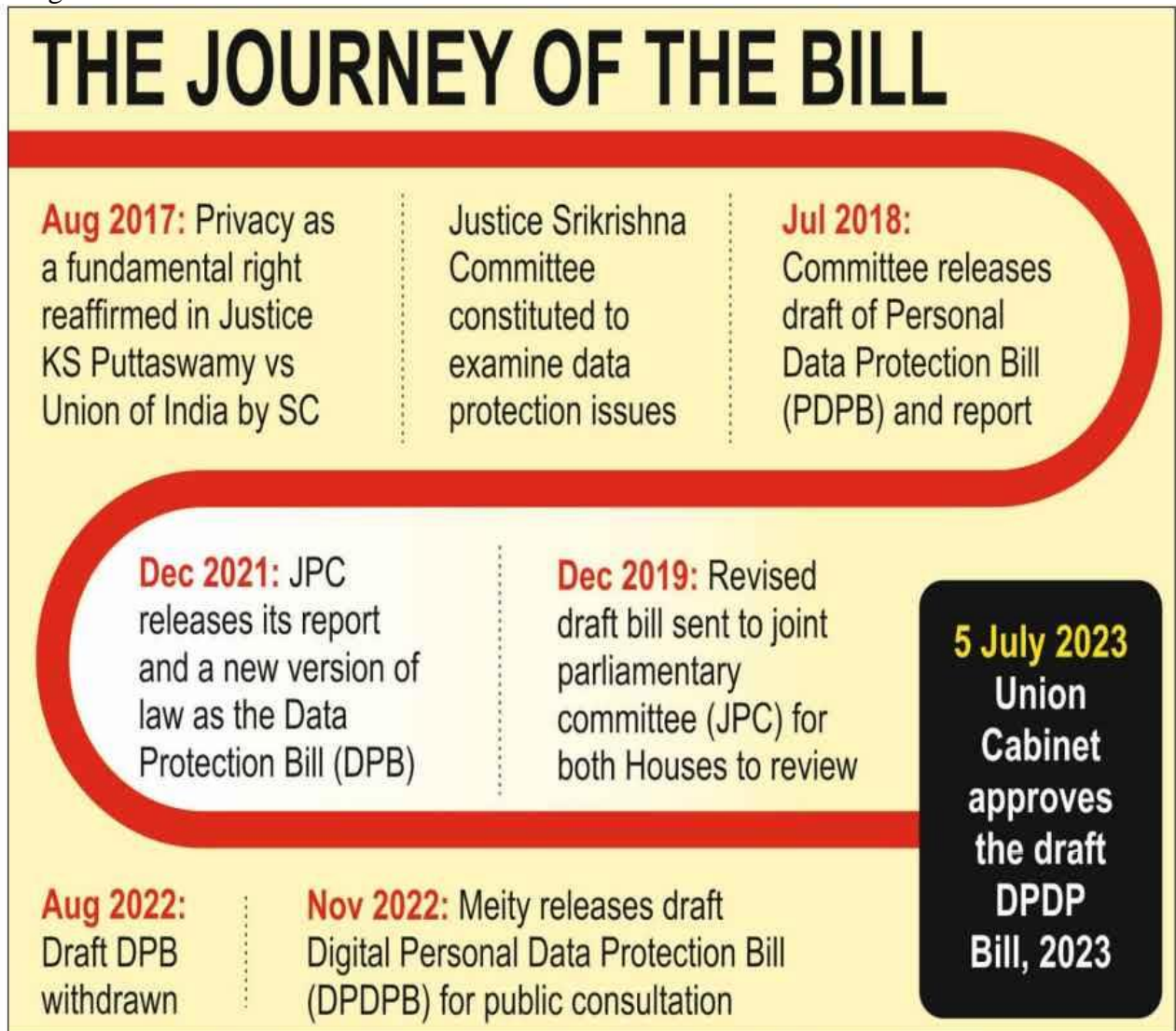


Protecting Personal Data: DPDP Act(Digital Personal Data Protection Act, 2023)

Background:

In the wake of the recent alarming leak of approximately **82 crore Aadhaar records** on the **dark web**, the urgent need for safeguarding personal data has gained paramount importance. The President's recent assent to the **Data Protection and Privacy Act** is a crucial step in addressing this growing concern.



Legal Foundation:

The genesis of the right to privacy as a fundamental right can be traced back to the landmark K.S. Puttaswamy case in 2017. The Supreme Court affirmed that the **Right to Privacy is intrinsic to Article 21**, bringing personal data within the ambit of individual privacy. This recognition set the stage for legislative actions to protect this fundamental right.

Classification of Data:

- Personal Data:**
 - Relates to a living individual and includes identifiable information.
 - Even seemingly non-personal data can be manipulated to identify individuals, making it a critical aspect of privacy protection.
- Non-Personal Data:**
 - Information that lacks personal identifiable elements.
 - Stripping away personal details from a dataset can render it non-personal.

Key Provisions and Benefits of DPDP Act:

1. **Protection of Digital Personal Data:**
 - Aims to safeguard digital personal data to uphold individual privacy.
2. **Government Use with Consent:**
 - Permits the government to use personal data for lawful purposes with the explicit consent of the data principal.
3. **Data Principal Rights:**
 - Empowers data principals with the right to obtain information about data processing, and correction and erasure of personal data.
4. **Data Protection Board of India (DPBI):**
 - Establishes DPBI to ensure data fiduciaries take necessary measures and comply with regulations.
5. **Strict Penalties for Violations:**
 - Provides for severe penalties in case of violations, emphasizing accountability.
6. **International Data Transfer:**
 - Allows the transfer of personal data outside India, excluding countries restricted by India.

Significance of Personal Data:

1. **National Security and Privacy:**
 - Protects individuals from potential threats, ensuring the privacy and security of personal information.
 - Guards against misuse, blackmail, and harassment.
2. **Strategic Importance:**
 - Acknowledges that data is a modern-day asset with the potential to influence geopolitics.
 - Emphasizes the importance of safeguarding personal data at a national level.
3. **Data Manipulation Concerns:**
 - Recognizes the risk of data science advancements leading to the manipulation of ideologies, thinking patterns, and decision-making.

Concerns Associated with DPDP Act:

1. **Exemption to State and Fundamental Rights:**
 - Raises concerns about potential violations of fundamental rights due to exemptions granted to the state.
2. **Credibility and Data Safety Standards:**
 - The recent Aadhaar data leak questions the efficacy of government safety standards for protecting digital data.
3. **Removal of Section 43A:**
 - The removal of **Section 43A** of the **Information Technology Act 2000**, which mandated compensation for data mismanagement, is a point of concern.
4. **RTI and Right to be Forgotten:**
 - Personal information of public officials is not subject to disclosure under the RTI Act.
 - The absence of the right to be forgotten poses challenges for data principals.

Way Forward:

While the DPDP Act marks a significant stride in personal data protection, its effectiveness lies in widespread awareness and education. Empowering citizens with knowledge about their personal data rights is paramount to the success of this legislation. Ongoing efforts in public education will fortify the citizenry, ensuring active participation and engagement with the protective measures outlined in the Act.