Digital India
Power To Empower

Ministry of
Electronics and Information Technology
Government of India
सत्यमेव जयते

Proposed
Digital India Act, 2023

Digital India Dialogues
09.03.2023
Bengaluru, Karnataka

Background (1/2)

India's Digital revolution and Global advancements have made our current regulatory landscape old and dated…

1. **IT Act 2000** is 22 years old and was created in **the early days of internet**.
2. Provisioned for **nascent IT ecosystem in 2000 pre-Digital India** in the absence of modern internet-based service such as e-Commerce, social media platforms
3. **Limited mandate-** legal recognition of electronic records, transactions and electronic signatures over the electronic medium
4. **Internet, Devices and Information Technology** have empowered citizens. However, these have also created challenges in the form of **user harm**; ambiguity in **user rights**; **security**; **women & child safety**; organised information wars, radicalisation and circulation of **hate speech**; misinformation and **fake news; unfair trade practices,** etc.

Annexure I- Limitation of IT Act

Background (2/2)

Current Regulatory Landscape

Intermediary Guidelines and Digital Media Ethics Code

Reasonable Security Practices and **SPDI Rules**

Certifying Authorities Rules

Information Technology Act

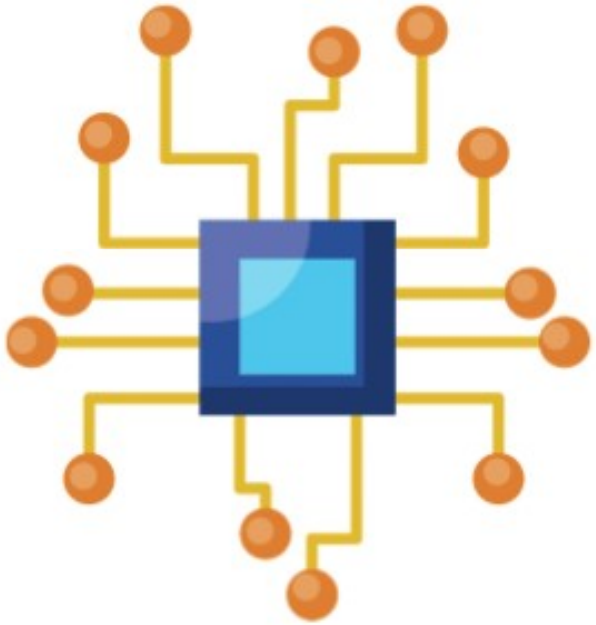
Use of **Electronic Records** and **Digital Signatures**

Indian Computer Emergency Response Team (**CERT**)

Procedures and Safeguards for **Blocking Rules**

Cyber Appellate Tribunal

Digital India Act (2023)



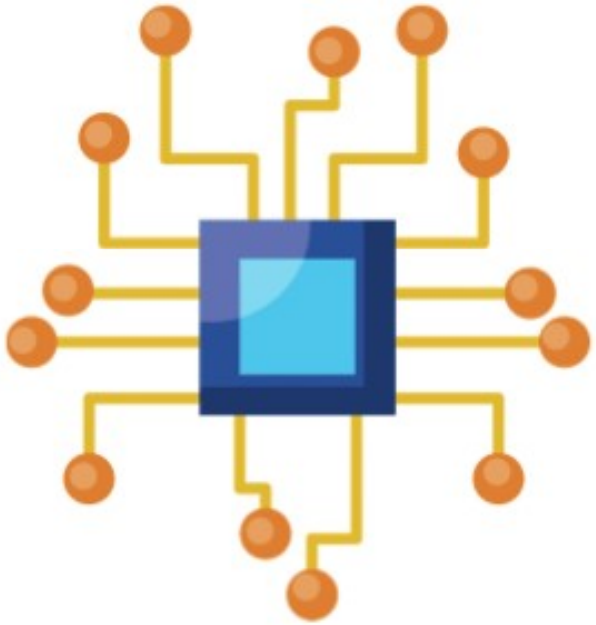
1. **Digital India Goals 2026**
2. Need for Global Standard Cyber Laws
3. Goals and Proposed Structure of DIA
4. Way Forward

Digital India Goals 2026

Hon'ble Prime Minister's Vision for Digital India

1	**$1 trillion digital economy** by 2025-26: **Atmanirbhar Bharat**
2	**Global innovation and entrepreneurship system**
3	India to be **Shaping the Future of Technologies**
4	India to be a Significant **Trusted Player in the Global Value Chains** for Digital Products, Devices, Platforms and Solutions.

Digital India Act (2023)



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Global Standard Cyber Laws

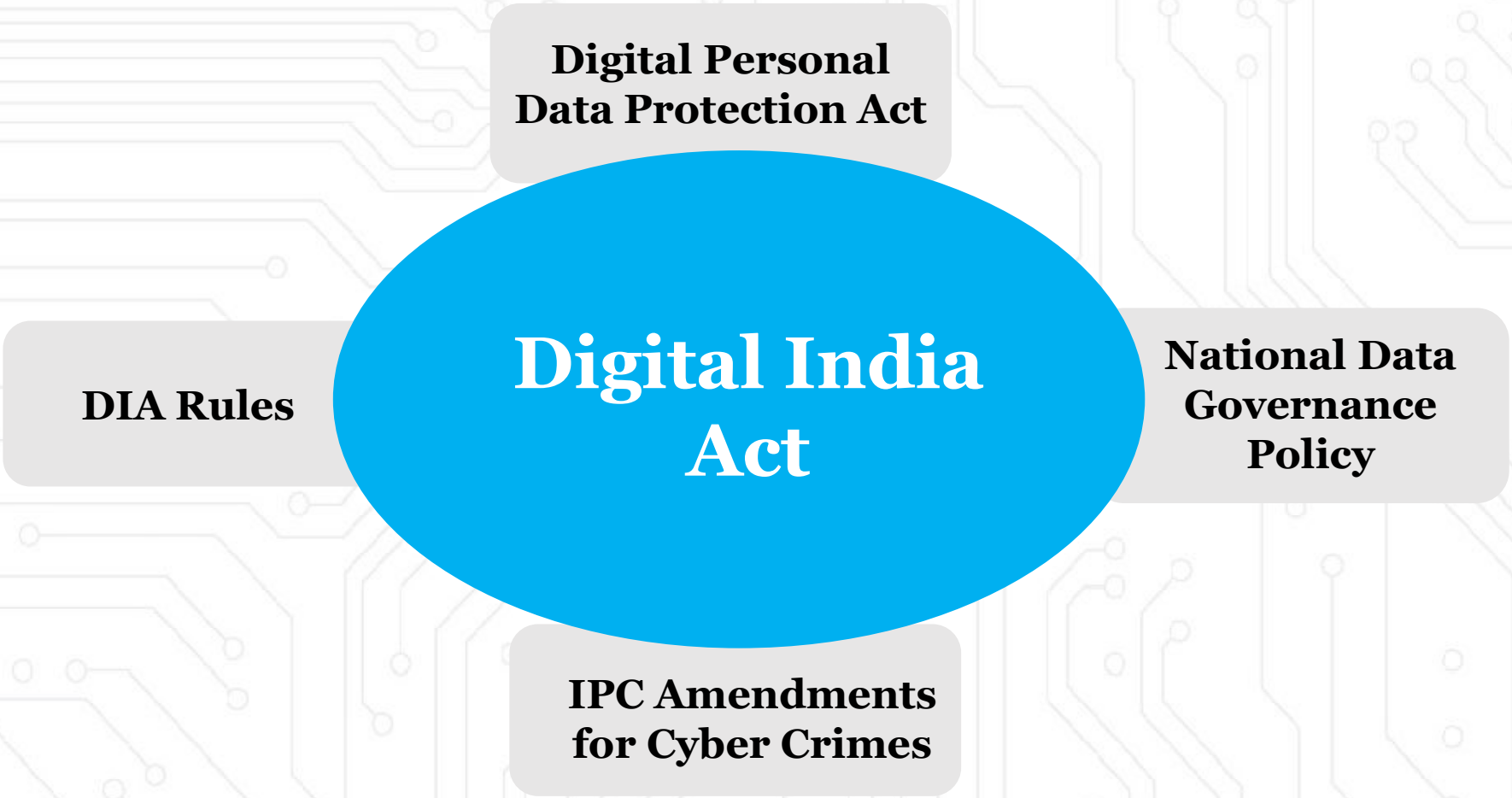
to act as a catalyst and enabler for

$1 trillion digital economy

Objectives of Global Standard Cyber Laws

1. Ensure Indian Internet is **Open, Safe & Trusted and Accountable**
2. Accelerate the growth of **innovation and technology ecosystem**
3. Manage the **complexities of internet** and **rapid expansion of the types of intermediaries**
4. Create a framework for **accelerating digitalization of Government** and to strengthen democracy and governance (G2C)
5. **Protect citizens' rights**
6. **Address emerging technologies and risks**
7. Being **Future-proof** and **Future-ready**

Framework of Global Standard Cyber Laws



Internet in 2000 *vs* Internet today

Present Challenges in the Cyberspace - Beyond the scope of IT Act

Internet in 2000	*Internet Today*
5.5 million Indians on Internet	**850 million** Indians on Internet - world's largest digitally connected democracy
One type of intermediary	**Multiple types of intermediaries** - eCommerce, digital media, social media, AI, OTT, gaming etc.
Space for good – allowing citizens to interact	Space for **criminalities and illegalities**
Traditional forms of User Harms: Cybercrime, Cyber-security, Hacking	**New Complex forms of User Harms**: Catfishing, Doxxing, Cyber stalking, Cyber trolling, Gaslighting, Phishing, etc.
Source of Information and News	Proliferation of **Hate Speech, Disinformation and Fake news**

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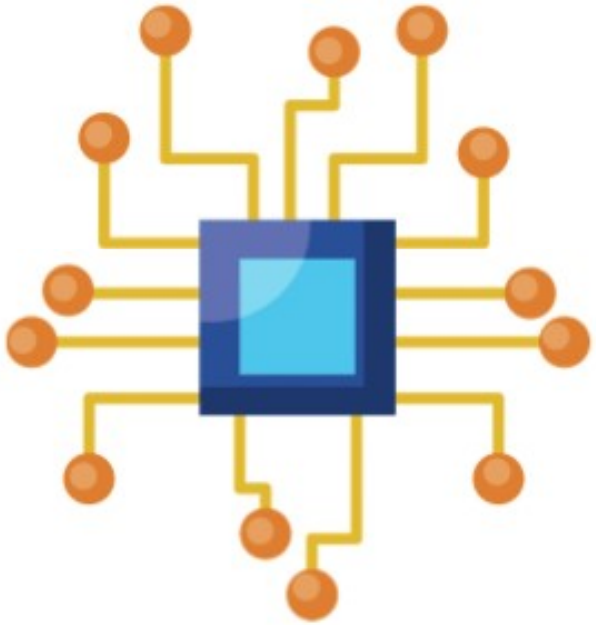

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Goals of DIA

- The new law should **evolve** through rules that can be updated, and address the **tenets of Digital India**
  - Open Internet
  - Online Safety and Trust
  - Accountability and Quality of Service
  - Adjudicatory mechanism
  - New Technologies

- Urgent need for a specialized and dedicated **adjudicatory mechanism** for online civil and criminal offences. The adjudicatory mechanism should
  - be easily accessible
  - deliver timely remedies to citizens
  - resolve cyber disputes
  - develop a unified cyber jurisprudence
  - enforce the rule of law online

Evolvable Digital Law

- The new Digital law should be **evolvable and consistent** with changing market trends, **disruption in technologies**, development in **international jurisprudence** and global standards for qualitative service/products delivery framework.

- In order to rapidly create, modify, and enforce regulations, it will adopt '***principles & rule-based approach***' to regulation which provides a legislative framework under governing principles and effective measures for securing compliance with the ever evolving rule of law.

Digital India Act –Index

1. Preamble
2. Principles
3. Digital Government
4. Open Internet
5. Online Safety and Trust including User Harm
6. Intermediaries
7. Accountability
8. Regulatory Framework
9. Emerging Technologies, Risks and Guard Rails
10. Miscellaneous

Key Components of DIA

Open Internet (1/2)

- An Open Internet should have

  (a) Choice;
  (b) Competition;
  (c) Online diversity
  (d) Fair market access, and
  (e) Ease of Doing Business and Ease of Compliance for Startups

- **Fair trade practices**, prevention of concentration of market power and gatekeeping, distortions through regulation of dominant Ad-tech platforms, App stores etc., promoting start-up India via **non-discriminatory** access to digital services and **interoperable platforms**.
- **Safeguard innovation** to enable emerging technologies like AI/ML, Web 3.0, Autonomous systems/ Robotics, IoT/ Distributed Ledger/ Blockchain, Quantum Computing, Virtual Reality/Augmented Reality, Real-time language translators, Natural-language processing, etc.
- **Promotion of Digital Governance** ease access to government & other public utility services, **delivery of public services through online and mobile platforms** in a simple, accessible, interoperable and citizen friendly manner.
- May need to update provisions in the **Competition Act, 2002**

Open Internet (2/2)

Big Tech is often gaming the System

The New York Times

U.S. Accuses Google of Abusing Monopoly in Ad Technology

The Justice Department's antitrust lawsuit, which a group of states joined, was the fifth by U.S. officials against the company since 2020.

Bloomberg

Google Found to Unfairly Block Rival Payments on India Store

- The antitrust watchdog says practices are discriminatory
- Google is grappling with a backlash at home and abroad

Financial Times

Big Tech attacks tough EU measures aimed at tackling its market power

Apple and Google criticise newly unveiled Digital Markets Act that will force a radical overhaul of their global operations

Fortune

TECH · NET NEUTRALITY

Netflix, Meta and other U.S. internet companies could be forced to pay to reach users in Europe. Here's why a new net neutrality fight is erupting.

INET

Big Tech: Not Only Market But Also Knowledge and Information Gatekeepers

Online Safety and Trust (1/5)

- **Adjudicating User Harm** against revenge porn, cyber-flashing, dark web, women and children, defamation, cyber-bullying, doxing, salami slicing, etc.
- **Age-gating** by **regulating addictive tech** and protect **minors' data**, safety and privacy of children on social media platforms, gaming and betting apps; **Mandatory 'do not track'** requirement to avoid children as data subjects for ad targeting, etc.
- **Digital user rights** including **Right to be forgotten**, Right to secured electronic means, **Right to redressal**, **Right to digital inheritance**, **Right against discrimination**, Rights against automated decision making, etc.
- **Discretionary moderation of fake news** by social media platforms should be critically examined and regulated under the **Constitutional rights of freedom of speech & expression**.

Online Safety and Trust (2/5)

- **Definition and Regulation of hi-risk AI systems** through legal, institutional quality testing framework to examine regulatory models, algorithmic accountability, zero-day threat & vulnerability assessment, examine AI based ad-targeting, content moderation etc.
- **Privacy invasive devices** such as **spy camera glasses, wearable tech** should be mandated under stringent regulation before market entry with strict **KYC requirements** for retail sales with appropriate criminal law sanctions.
- **Secure Cyberspace** by empowering agencies like CERT-In for cyber resilience; strengthening the penalty framework for non-compliance, advisories on the information & data security practices, etc.
- **Content Monetisation Rules** for platform-generated and user-generated content

Online Safety and Trust (3/5)

User harm, taking various forms - Particularly unique to the internet

CNN News
January 2023

Seattle public schools sue social media companies for allegedly harming students' mental health

The Wall Street Journal
February 2023

Lawmakers Renew Push to Shield Children From Harmful Online Content

Reuters
February 2023

As U.S. Supreme Court weighs YouTube's algorithms, 'litigation minefield' looms

HT Tech
February 2023

Gaslighting, love bombing and narcissism: why is Microsoft Bing chatbot so unhinged?

There's a race to transform search. And Microsoft just scored a home goal with its new Bing search chatbot, Sydney, which has been terrifying early adopters with death threats.

Washington Post
February 2023

AI porn is easy to make now. For women, that's a nightmare.

Easy access to AI imaging gives abusers new tools to target women

AI-generated tools are becoming commonplace and so too are "DeepFakes" which can easily generate realistic-looking content. Pornographic DeepFakes add another layer of harm to women online.

The Financial Times
January 2023

Sunak faces potential rebellion over online harms bill

Tory backbenchers want tougher sanctions on tech bosses who fail to protect children from harmful content

Online Safety and Trust (4/5)

Weaponisation of disinformation in the name of Free Speech

Online Safety and Trust (5/5)

Intermediaries have started acting upon harmful content, but that's not enough !

Youtube: 58.2 lakh Channels, 56 lakh videos (30% of which are from India) Removed

- **Top 3 reasons for channel suspension**: Spam, misleading; Nudity or sexual and Child Safety
- **Top 3 reasons for video removal**: Child Safety, Violent content, nudity or sexual

**July to Sept 2022*

Meta: 327 crore content acted upon

- **Acted upon content:** 322 crore on Facebook and 52 crore on Instagram
- **Top 3 reasons for acting**: Spam, Fake accounts and Adult Nudity & Sexual Activity

**Oct to Dec 2022*

Whatsapp: 97.2 lakh Indian accounts banned

- Accounts are banned when abuse is detected either on the basis of user complain, or through Whatsapp's own tools and resources

**Oct to Dec 2022*

Accountable Internet (1/2)

- **Adjudicatory and Appellate Mechanisms** for accountable and responsive digital operators; **updated intermediary framework**; Obligations on significant digital operators through classification/ mandates; **Algorithmic transparency** and **periodic risk assessments** by digital entities
- **Accountability** for upholding **Constitutional rights** of the citizens, esp. **Article 14, 19 & 21**; **Ethical use of AI based tools** to protect rights or choices of users; **Provision of deterrent**, effective, proportionate and dissuasive penalties, etc.
- **Whole-of-Government Response** for a unified, coordinated, efficient and responsive governance architecture including an effective appropriate government structure, a **dedicated inquiry agency** and a **specialised Dispute resolution/ adjudication framework**.
- **Disclosure Norms** for data collected by Data Intermediaries, collecting data above a certain threshold.
- **Standards for ownership** of anonymized personal data collected by Data Intermediaries

Accountable Internet (2/2)

Need for Responsible and Ethical Use of Online Technologies

The Forbes

Deepfakes – The Danger Of Artificial Intelligence That We Will Learn To Manage Better

Sep 8, 2022

....more widespread abuse is expected with more widespread availability.

FTC Press Release

FTC Report Warns About Using Artificial Intelligence to Combat Online Problems

Agency Concerned with AI Harms Such As Inaccuracy, Bias, Discrimination, and Commercial Surveillance Creep

The New York Times

Alarmed by A.I. Chatbots, Universities Start Revamping How They Teach

With the rise of the popular new chatbot ChatGPT, colleges are restructuring some courses and taking preventive measures.

The Washington Post
March 2023

'Noah' and 'Daren' report good news about Venezuela. They're deepfakes.

The avatars are the latest tool in Venezuela's disinformation campaign, experts say

The New York Times

Supreme Court Seems Wary of Limiting Protections for Social Media Platforms

The case, concerning a law that gives websites immunity for suits based on their users' posts, has the potential to alter the very structure of the internet.

World Economic Forum

Is blockchain really secure? Here are four pressing cyber threats you must consider

Feb 21, 2023

Intermediaries

Different types of intermediaries

- eCommerce
- Digital Media
- Search Engines
- Gaming
- AI
- Over-the-top (OTT) Platforms
- TSPs
- Ad-Tech
- SSMIs, etc

Need for separate rules for each class of intermediaries

Should there be "Safe Harbour" at all for intermediaries?

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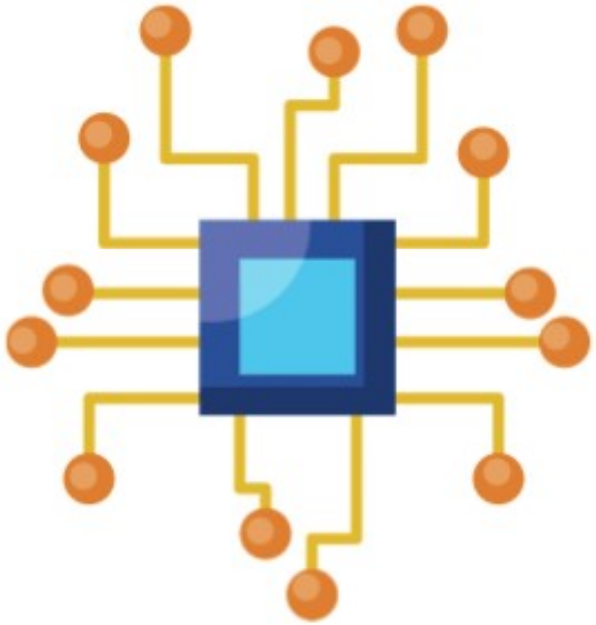

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4. **Way Forward**

Way Forward

Core Team in MEITY : [MOS, Addl Secy, GC Cyberlaw, ASG, Outside Legal Expert, Outside Industry Expert]

1. **Comparative Study of all relevant Global laws** pertaining to the internet and technology in other countries
2. **Draft Bill**
3. **Consultations** with experts, general public, industry, media, academia, student community, internet governance forums and consumer forums
4. **Draft Cabinet Note and Policy**
5. **Digital India Act (DIA)**

THANK YOU

Annexure I- Limitations of IT Act 2000

The current IT Act has following limitations, among others:

i. Lack of comprehensive provisions on user rights, trust & safety;

ii. Limited recognition of harms and new forms of cybercrimes, without any institutional mechanism for awareness creation;

iii. Lack of distinct regulatory approaches for harmful and illegal content;

iv. Absence of adequate regulations to address the regulatory requirements of emerging technology, assessments of high risk automated-decision making systems modern, digital businesses including monopolies and duopolies;

v. Lack of adequate principles for data / privacy protection;

vi. Lack of a converged, coordinated & harmonized institutional regulatory body; a dedicated & efficacious investigatory/ enforceability and a swift adjudicatory mechanism;

vii. Lack of coordinated cyber security incident response mechanism