

The Digital India Act (DIA) Draft 2026

Context: The Ministry of Electronics and IT (MeitY) released the draft **Digital India Bill, 2026** for public consultation in mid-January. **Key Theme:** From 'Safe Harbour' to 'Digital Accountability'.

Keywords: Safe Harbour 2.0, Algorithmic Accountability, Digital India Authority, Do-No-Harm Principle.

1. The Context: Retiring the 26-Year-Old 'IT Act'

The existing **Information Technology Act, 2000** was drafted when "Google" was a startup and "Facebook" didn't exist. It was designed to protect intermediaries (ISPs/websites) to let the internet grow.

In **January 2026**, the government officially acknowledged that the "Growth Phase" is over and the "Harm Phase" has begun. The draft DIA aims to replace the IT Act with a framework focused not on *connecting* people, but on *protecting* them.

2. The Core Shift: Safe Harbour 2.0

The most debated provision in the January draft is the dilution of **Section 79 (Safe Harbour)**.

- **Old Norm:** Platforms like X/Instagram had "immunity by default." If a user posted hate speech, the platform was not liable unless they failed to remove it after a court order.
- **The 2026 Draft:** Safe Harbour is now "**Earned, not Given.**"
 - To claim immunity, "Significant Digital Intermediaries" (SDIs) must prove they took proactive measures to prevent specific harms (e.g., child abuse, deepfakes).
 - *Mains Implication:* This shifts the burden of proof. It incentivizes platforms to use "**Pre-emptive AI Moderation**" rather than waiting for a takedown notice.

3. Algorithmic Accountability & 'Do-No-Harm'

For the first time, Indian law proposes to regulate the *code* itself.

- **The Provision:** The draft mandates that high-risk platforms must submit to "**Algorithmic Audits**" by the proposed **Digital India Authority**.
- **The Logic:** If an algorithm (e.g., YouTube Recommendations) amplifies polarization or self-harm content to increase "watch time," the platform can be penalized.
- **The 'Do-No-Harm' Duty:** The draft introduces a fiduciary duty on platforms towards "**Digital Nagriks**" (citizens). They must ensure their design does not cause *psychological harm* to children (e.g., addictive infinite scrolls).

4. Taming the 'Deepfake' Dragon

In response to the 2025 deepfake crisis, the DIA draft creates specific offences for **Synthetic Media**.

- **Labelling Mandate:** Any content generated by AI must have a visible and metadata-based "Origin Label."
- **Criminal Liability:** Creating a deepfake with "malicious intent" (to defame, incite violence, or defraud) is proposed as a **non-bailable offence**, distinct from standard forgery.

- **The 'Platform's Duty':** If a deepfake goes viral, the platform cannot hide behind "we didn't know." They must show they had *technologies in place* to detect synthetic patterns.

5. Mains Analysis: The "State vs. Big Tech" Battle

- **The Sovereignty Argument:** The DIA asserts "**Digital Sovereignty.**" It rejects the view that the internet is a borderless global commons. It treats the Indian internet as a sovereign space where Indian laws (and not Silicon Valley "Community Guidelines") are supreme.
- **The "Chilling Effect" Critique:** Critics (Internet Freedom Foundation, etc.) argue that "Earned Safe Harbour" will force platforms to **over-censor**. To avoid liability, platforms might proactively delete even legitimate political speech, effectively becoming "Private Censors" for the State.