



Evolution of Right to Privacy in India-A Historical Perspective

Dr.K.NEELA PUSHPAM,

ASSISTANT PROFESSOR OF HISTORY

PG & RESEARCH DEPARTMENT OF HISTORY,

THE STANDARD FIREWORKS RAJARATNAM COLLEGE FOR WOMEN
(AUTONOMOUS),SIVAKASI,TAMILNADU

Mail Id :neela-his@sfrcollege.edu.in

ABSTRACT

How to Cite this Article:

PUSHPAM, K. (2026). Evolution of Right to Privacy in India-A Historical Perspective. International Journal of Creative and Open Research in Engineering and Management, <i>02</i>(7), 1-9.
<https://doi.org/10.55041/ijcope.v2i7.213>

License:

This article is published under the terms of the Creative Commons Attribution 4.0 International License (CC BY 4.0), which permits unrestricted use, distribution, and reproduction in any medium, provided the original author(s) and the source are credited.

© The Author(s). Published by International Journal of Creative and Open Research in Engineering and Management.



<https://doi.org/10.55041/ijcope.v2i7.213>

The concept of the **Right to Privacy** has evolved from a limited common law principle into a constitutionally guaranteed fundamental right in India. Although the Constitution of India does not explicitly mention the right to privacy, its development has been shaped through judicial interpretation, constitutional philosophy, and changing socio-political realities. This paper examines the historical evolution of the right to privacy in India, tracing its roots from ancient Indian traditions that recognized personal dignity and the sanctity of private life to the constitutional debates of the post-independence period. It critically analyzes the landmark judicial decisions that gradually expanded the scope of privacy under Article 21 of the Constitution, beginning with *M.P. Sharma v. Satish Chandra* (1954) and *Kharak Singh v. State of Uttar Pradesh* (1962), followed by significant rulings in *Gobind v. State of Madhya Pradesh* (1975), *R. Rajagopal v. State of Tamil Nadu* (1994), and *People's Union for Civil Liberties v. Union of India* (1997). The study culminates in an examination of the historic judgment in *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017), in which a nine-judge bench of the Supreme Court unanimously recognized privacy as an intrinsic part of the fundamental rights to life, liberty, dignity, and personal autonomy under Articles 14, 19, and 21. Adopting a historical and doctrinal research methodology, the paper relies on constitutional provisions, judicial precedents, legislative developments, and scholarly literature to analyze the transformation of privacy rights in India. It further explores the contemporary

challenges posed by digital governance, surveillance technologies, artificial intelligence, biometric identification systems, and the increasing collection and processing of personal data. The study argues that the recognition of privacy as a fundamental right reflects the dynamic nature of the Indian Constitution and its capacity to respond to technological advancements and evolving democratic values. It concludes that safeguarding privacy is essential for preserving human dignity, individual freedom, and constitutional democracy in the digital era, while emphasizing the need for effective legal frameworks and balanced state regulation to protect citizens' rights without compromising national security and public interest.

KEYWORDS: Right to Privacy, Constitution of India, Article 21, Fundamental Rights, Judicial Activism, Human Dignity, K.S. Puttaswamy Judgment, Constitutional History, Digital Privacy, Personal Liberty.



INTRODUCTION

The right to privacy, though not explicitly mentioned in the Indian Constitution, has emerged as a cornerstone of individual liberty and human dignity through judicial interpretation and constitutional evolution. In a democratic society like India, the recognition and protection of privacy rights reflect the changing relationship between the state and its citizens. The journey of the right to privacy has been shaped by various landmark judgments, societal transformations, and the growing need to safeguard personal autonomy in an era of rapid technological advancement. This historical perspective aims to trace the development of the right to privacy in India—from its modest beginnings in early court rulings to its affirmation as a fundamental right under Article 21 of the Constitution in the landmark *Justice K.S. Puttaswamy v. Union of India* (2017) judgment. Understanding this evolution provides valuable insights into the dynamic nature of constitutional rights and the broader struggle to balance individual freedom with state interests. Gaining greater prominence in Indian constitutional jurisprudence, the right to privacy is mainly concerning recent technological developments and increased state surveillance. Curiously, there is no mention whatsoever of the right to privacy in the original text. Yet, reading between the lines, various Fundamental Rights under Article 21 have been distilled, including the right to life and personal liberty among others. A long chain of judgments has been influential in the shaping of the constitutional right of privacy, continuing their development in terms of the role the Supreme Court of India is to play in its interpretation within the context of changing societal needs and challenges.

MEANING OF RIGHT TO PRIVACY

Privacy is not a new concept. It refers to the right of individuals to keep personal matters to themselves or share them only with chosen persons. The term “privacy” is derived from the Latin word *privatus*, meaning private, secret, or personal, as opposed to what is public or controlled by the state. In India, the right to privacy has increasingly come to be seen as an essential facet of individual liberty, dignity, and autonomy. With rapid technological advancements, protecting one’s personal data and freedom from unwarranted surveillance has become ever more significant

WHAT IS RIGHT TO PRIVACY?

In India, the right to privacy is a fundamental right protected under Article 21 of the Indian Constitution. The most recent affirmation of this right came in a historic 2017 decision of Justice K.S. Puttaswamy (Retd) vs. Union of India. In the ruling, the right to privacy was acknowledged as a fundamental right and stipulated that it must be subject to reasonable restrictions that are required to safeguard the interests of the general public and the State.

- In this context, the Supreme Court of India has held that individuals have a right to privacy in matters such as their personal information, communication, and other private matters. It has also decided that the State must ensure that its citizens' privacy is protected from arbitrary interference.
- In addition to the recognition of the right to privacy in Indian Constitution, there are several other laws that protect the privacy of an individual. This includes the Information Technology Act 2000, the Indian Penal Code 1860, and the Right to Information Act 2005.
- As part of its efforts to safeguard the privacy of its citizens, the Government of India has also introduced the Personal Data Protection Bill 2019, which aims to regulate the collection, storage, and processing of personal data by businesses.
- The purpose of this legislation is to safeguard individuals' private information and uphold their right to privacy.
- In the year 2016, the government also introduced the Aadhar Act, which aims to provide each citizen with a unique identification number and ensure that their data is secure and private.



SCOPE OF THE RIGHT TO PRIVACY

The right to privacy in India is multi-dimensional. It encompasses several aspects that can be broadly categorized as follows:

PERSONAL AUTONOMY AND PHYSICAL PRIVACY

PERSONAL AUTONOMY AND PHYSICAL PRIVACY

- ✓ **PERSONAL SPACE:** The freedom to live without undue intrusion from the state or others.
- ✓ **DOMICILIARY PRIVACY:** Protection from unwarranted police searches and surveillance at one's home.
- ✓ Informational Privacy.
- ✓ **DATA PROTECTION:** The right to control how one's personal data is collected, stored, and used.
- ✓ **COMMUNICATION PRIVACY:** Protection from unauthorised interception of telephone calls or digital communications.
- ✓ Decisional and Dispositional Privacy.
- ✓ **AUTONOMY IN PERSONAL DECISIONS:** The ability to make intimate and personal decisions without external interference.
- ✓ **FREEDOM FROM INTRUSION:** The right to be left alone in personal and family matters.
- ✓ Digital and Technological Privacy
- ✓ **SAFEGUARDING DIGITAL FOOTPRINTS:** With the advent of the internet and digital technologies, privacy has expanded to include protection against cyber attacks, identity theft, and misuse of personal information.

RIGHT TO PRIVACY - ARTICLE 21 OF INDIAN CONSTITUTION

- ❖ The right to privacy is a fundamental right for Indian citizens under Part III and Article 21 of the Constitution, according to a ruling made by the Indian Supreme Court.
- ❖ The court specifically adopted the three criteria that must be met before Article 21 rights can be infringed upon:
 - ✓ Legality (i.e., through an existing law);
 - ✓ Necessity (i.e., a legitimate state objective);
 - ✓ Proportionality (i.e., a rational connection between the invasion's intended goal and the methods used to achieve it).
- ❖ To address the issues brought on by the advancing digital age, the Court adopted a liberal interpretation of fundamental rights. It advocated for the protection of individual autonomy and privacy as well as the extension of individual liberty to digital spaces.
- ❖ The decriminalisation of homosexuality in India as a result of this Supreme Court decision took place on September 6, 2018, legalising same-sex relationships between consenting adults.
- ❖ With this decision, India, the largest democracy in the world, joined the US, Canada, South Africa, the EU, and the UK in recognizing this fundamental right.

EVOLUTION OF RIGHT TO PRIVACY

The evolution of this right in India can be traced back to various judicial and legislative developments over the years.

Supreme Court Cases	Year	Subject Matter
Kharak Singh vs State of Uttar Pradesh	1963	Supreme Court decided that the right to privacy is an integral part of the right to personal liberty under Article 21 of the Indian Constitution



R. Rajagopal vs State of Tamil Nadu	1994	The Supreme Court ruled in this case that the right to privacy includes the right to live a private life and the right to be left alone. The Court acknowledged as well that the right to privacy is not an absolute right and may be subject to reasonable restrictions.
PUCL vs Union of India	1997	The Supreme Court ruled that telephone tapping is unlawful unless it is permitted by law and required in a democratic society to maintain public order or national security.
Naz Foundation vs Government of NCT of Delhi	2009	The Delhi High Court ruled that criminalizing homosexuality in this case violates people's rights to privacy and dignity.
Aadhaar judgment	2018	The Supreme Court ruled that the Aadhaar scheme violates the right to privacy because it recognizes it as a fundamental right protected by the Indian Constitution. The Court also established the proportionality test to judge the legality of any privacy rights violations.
Justice K.S. Puttaswamy (Retd.) vs Union of India	2017	The Supreme Court held that the right to privacy is a fundamental right under the Indian Constitution and is protected under Article 21 and Article 14 of the Constitution.

CONCERNS REGARDING PRIVACY IN INDIA

- ❖ Since social media and messaging apps have become more prevalent, online privacy is a subject of concern. There are concerns about the protection of personal information and potential misuse of this data because these platforms collect personal data and share it with various third parties.
- ❖ Lack of informed consent is another important issue in India in the collection and processing of personal data by different entities, including the government, private businesses, and service providers. People frequently don't realize how much and how their personal information is being collected and used by others.
- ❖ As a result of the growing use of digital technology in India, data protection has grown to be a significant issue in India.
 - Sensitive personal data, including Aadhaar, financial information, medical records, etc, have been breached and hacked on numerous occasions.
 - Aiming to address some of these issues and regulate the gathering, storing, and processing of personal data, Personal Data Protection Bill 2019 is introduced.
- ❖ Infringement of privacy rights concerns in India have been raised by the use of surveillance technology such as facial recognition and biometric identification.
 - The government of India has been charged with using these technologies to track and mass-surveil citizens.
 - The lack of adequate legal frameworks to regulate the use of these technologies has made the concerns worse.
- ❖ The lack of comprehensive legal frameworks is another concern to safeguard individuals' rights to privacy and control the use of personal data. Although it aims to address some of these issues, the Personal Data Protection Bill 2019, has to yet become law.

GOVERNMENT EFFORTS TO PROTECT PRIVACY

The Indian government has taken several steps to protect citizens' privacy.

SUPREME COURT RULINGS AGAINST THE RIGHT TO PRIVACY

In the past, the Indian Supreme Court has made decisions that have restricted or limited the right to privacy in situations involving national security, law enforcement, and the public interest.



- A.K Gopalan vs The State (1950)
- Kharak Singh vs The State of UP

A.K Gopalan vs The State (1950)

In A.K. Gopalan v.

- ✓ The State (1950), the Supreme Court ruled that Article 21 of the Indian Constitution's guarantee of the right to life and personal liberty did not extend to the right to privacy.
- ✓ The Court declared that the protection of privacy was not included in the narrow definition of personal liberty. In the landmark decision Justice K.S. Puttaswamy (Retd.) v. Union of India (2017), the Supreme Court overturned this judgment and acknowledged the right to privacy as a fundamental right protected by the Indian Constitution.

Kharak Singh vs The State of UP

- The Supreme Court of India ruled that the relevant provisions, which permitted police to visit "habitual criminals" or people who were likely to become habitual criminals at their homes, were unconstitutional. Kharak Singh would frequently be awakened from sleep when the police visited his home at odd hours.
- The visits violated the petitioner's right to life, which the court claimed could only be curtailed by law and not by executive orders like the Uttar Pradesh Police Regulations.
- The petitioner argued that the shadowing of repeat offenders violated his right to privacy, but the court rejected this argument on the grounds that the Indian Constitution does not recognise this right as a fundamental one.

SUPREME COURT RULING THAT UPHELD THE RIGHT TO PRIVACY

The Supreme Court of India issued a landmark ruling that upheld the right to privacy as a fundamental right under the Indian Constitution, setting a precedent for future privacy cases.

K.S. Puttaswamy vs Union of India (2017)

- The right to privacy was acknowledged as a fundamental right under the Indian Constitution by the Supreme Court in the landmark decision of K.S. Puttaswamy (Retd.) v. Union of India (2017).
- According to the Court, Article 21 of the Constitution's guarantee of the right to life and personal freedom includes the right to privacy as an essential component. The Court also acknowledged the importance of privacy for maintaining human dignity and autonomy as well as being a prerequisite for the enjoyment of other fundamental rights.
- The protection of privacy rights in India has been greatly affected by this decision, which has been hailed as a significant step in the direction of preserving individual liberties.

PERSONAL DATA PROTECTION BILL OF 2019 - PRECURSOR TO RIGHT TO PRIVACY

The Personal Data Protection Bill of 2019 was a precursor to the right to privacy in India. The bill was proposed in response to the 2017 Supreme Court ruling that declared the right to privacy as a fundamental right.

- In addition to giving people certain rights such as the right to be informed, the right to access, the right to object, the right to be forgotten, and the right to data portability, the bill aims to regulate the collection, storage, and use of personal data by institutions.
- It also aims to set up an impartial regulator to control how the suggested framework is put into practice.
- The bill included provisions requiring consent, contractual necessity, and adherence to the law as well as a framework for safeguarding personal data in India.
- It also established rules for data controllers and processors to ensure the protection of personal data.
- The bill also recognise the right to privacy as a fundamental right and established the right of individuals to control their personal data as well as reasonable limitations on its collection and use.



- The proposed legislation called for the implementation of reasonable security measures to protect personal data, such as the use of encryption, and anonymization.
 - It outlined the obligations of organisations to alert people to data breaches and grant them access to their personal data.
 - A number of remedies were also included in the bill, such as monetary compensation for ignoring the recommended framework.

RESTRICTIONS TOWARDS THE RIGHT TO PRIVACY IN INDIA

- ✓ Numerous statutes and laws in India protect people's right to privacy. There are some limitations imposed on this right though.
 - ✓ Under the Indian Penal Code, 1860, the right to privacy may be curtailed if it is necessary to safeguard India's sovereignty and integrity, the nation's security, friendly relations with other nations, the maintenance of public order, morality, or decency, or in cases involving judicial contempt, defamation, or incitement to commit an offense.
 - ✓ According to the Supreme Court of India, the right to privacy is not absolute and may be restricted to protect the general welfare and for reasons of national security.
 - ✓ The Court has also ruled in some instances that the right to privacy may be curtailed if it is necessary to stop a crime from being committed.
 - ✓ The right to privacy may also be subject to restrictions by the government in the form of surveillance, electronic communication interception, or the gathering of biometric data.
 - ✓ The government may also impose limitations on the right to privacy when dealing with foreign individuals, or groups or when the information is crucial for national security.
 - ✓ Individuals may also waive their right to privacy in cases where they enter into contracts or agreements with a third party.
- For example, individuals may agree to provide personal information to a company in order to receive a service or enter into a contract.

CONSTITUTIONAL FOUNDATIONS ON RIGHT TO PRIVACY

ARTICLE 21 AND PERSONAL LIBERTY

The Constitution of India does not explicitly mention “privacy” as a fundamental right. However, the Supreme Court has interpreted the right to life and personal liberty under Article 21 as implicitly including the right to privacy. Article 21 guarantees every person the right to live with dignity and enjoy all aspects of personal liberty, which naturally extends to protecting personal space and autonomy.

EVOLUTION THROUGH JUDICIAL INTERPRETATION

Over the years, landmark judgements have broadened the scope of Article 21. Early cases, such as *M.P. Sharma v. Satish Chandra* (1954) and *Kharak Singh v. State of Uttar Pradesh* (1963), dealt primarily with issues of search and seizure and police surveillance. These cases laid the groundwork for later decisions that recognised privacy as a key element of personal liberty.

The seminal decision in *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017) confirmed that the right to privacy is a fundamental right protected under the Constitution. The nine-judge bench unanimously held that privacy forms an intrinsic part of the right to life and personal liberty guaranteed by Article 21. This judgement overruled previous cases that had dismissed privacy as a stand-alone right and established privacy as a critical legal value in India.

HISTORICAL EVOLUTION OF PRIVACY JURISPRUDENCE

EARLY CASES AND COMMON LAW INFLUENCES

In the early decades following independence, Indian courts largely followed common law principles, often borrowing ideas from American jurisprudence. For example, in *M.P. Sharma v. Satish Chandra* (1954), the court dealt with issues



related to search and seizure and held that such actions did not amount to a violation of privacy since the Constitution did not explicitly mention the right.

However, as the legal landscape evolved, dissenting opinions—such as those in *Kharak Singh v. State of Uttar Pradesh* (1963)—began hinting at an implicit right to be left alone. Justice Subba Rao and others observed that mere physical freedom was insufficient without the ability to live life without constant surveillance or intrusion.

GRADUAL EXPANSION AND JUDICIAL REINTERPRETATION

Throughout the 1970s and 1980s, cases such as *Govind v. State of Madhya Pradesh* (1975) and *R. Rajagopal v. State of Tamil Nadu* (1995) contributed to a growing recognition that privacy extended beyond mere protection from physical searches. The courts began to recognise that privacy included informational aspects, such as the right to keep personal data and intimate details confidential.

The turning point, however, came with the *Puttaswamy* judgement in 2017. By conclusively recognising privacy as a fundamental right, the Supreme Court paved the way for further legal developments, including challenges to intrusive state practices and a call for robust data protection mechanisms in the digital age.

LANDMARK CASES ON RIGHT TO PRIVACY IN INDIA

A series of judgements by the Supreme Court has been instrumental in defining and safeguarding the right to privacy in India. Some of the key cases include:

M.P. Sharma v. Satish Chandra (1954)

- ❖ OVERVIEW: This early case dealt with search and seizure operations conducted by the police.
- ❖ KEY FINDING: The court held that search and seizure were temporary interferences with personal property rights and did not constitute a violation of privacy, as the Constitution did not explicitly protect privacy at that time.

Kharak Singh v. State of U.P. (1963)

- OVERVIEW: The case involved police surveillance measures, including nocturnal domiciliary visits.
- KEY FINDING: While the majority held that such surveillance did not infringe on personal liberty, dissenting opinions suggested that constant monitoring could violate the right to be left alone—a precursor to later privacy rights.

Govind v. State of Madhya Pradesh (1975)

- ✓ OVERVIEW: This case examined police regulations on surveillance and their impact on personal freedom.
- ✓ KEY FINDING: The court upheld police powers as necessary for preventing crime, but cautioned that excessive surveillance could verge on violating fundamental rights, urging a narrow interpretation of such powers.

R. Rajagopal v. State of Tamil Nadu (1995)

- ✓ OVERVIEW: Famously known as the *Auto Shanker* case, this judgement dealt with the publication of a prisoner's life details.
- ✓ KEY FINDING: The Supreme Court held that publishing personal life details without consent violates the right to privacy, establishing that every individual has the right to be let alone.

PUCL v. Union of India (1997)

- Overview: This Public Interest Litigation (PIL) challenged telephone tapping under the Indian Telegraph Act.



- Key Finding: The court stressed the need for procedural safeguards and struck down aspects of the law that allowed for unchecked interception of personal communications.

Justice K.S. Puttaswamy (Retd.) v. Union of India (2017)

- ❖ OVERVIEW: This watershed judgement definitively declared the right to privacy a fundamental right under Article 21.
- ❖ KEY FINDINGS:

Privacy is intrinsic to the right to life and personal liberty.

The right to privacy, while fundamental, is not absolute and may be subject to reasonable restrictions.

The judgement overruled earlier cases that denied privacy as a standalone right.

It laid down the test of proportionality and legitimacy, which any state action must satisfy if it seeks to curtail privacy.

SUBSEQUENT DEVELOPMENTS

Following the Puttaswamy verdict, subsequent cases have refined the guidelines for government surveillance, data retention, and interception. For instance, in Vinit Kumar v. Central Bureau of Investigation (2019), the Bombay High Court reiterated that any order for interception must meet the proportionality test to be valid. Such decisions continue to shape the legal framework for privacy protection in an increasingly digital society.

PRIVACY IN THE AGE OF TECHNOLOGY

DIGITAL DATA AND INFORMATIONAL PRIVACY

The exponential growth of information technology has transformed the concept of privacy. Personal data now extends beyond physical documents to digital records that include biometric details, online activity logs, and social media footprints. This evolution has prompted courts and legislators alike to revisit the scope of privacy rights.

LEGISLATIVE DEVELOPMENTS

In response to growing concerns over data misuse, India has seen significant legislative efforts:

- ❖ Information Technology Act, 2000: Initially enacted to address cybercrime and electronic commerce, this Act includes provisions (e.g., Section 69A) that grant the government the power to intercept digital communications. However, some sections, such as Section 66A, have faced judicial scrutiny and have been struck down.
- ❖ Digital Personal Data Protection Act, 2023: Recently enacted, this Act aims to provide a comprehensive framework for protecting the digital personal data of individuals. Key features include:
 - ❖ Consent Requirement: Personal data may only be processed with the explicit consent of the individual.
 - ❖ Data Fiduciaries: Entities determining the purpose and means of processing data must adhere to strict guidelines.
 - ❖ Data Protection Board: A statutory body has been established to monitor compliance and address grievances.
 - ❖ Cross-Border Data Transfers: The Act also regulates how personal data is transferred outside India, ensuring that adequate safeguards are in place.

CHALLENGES AND CRITICISMS

Despite its progress, the current data protection framework faces several challenges:

1. Delegated Legislation: Critics argue that excessive delegated powers may lead to arbitrary decisions by regulatory bodies.



2. **No Compensation Mechanism:** Unlike the European Union's General Data Protection Regulation (GDPR), the Act does not provide for compensation in cases of data breaches.
3. **Right to be Forgotten:** The concept of being able to erase personal data from public databases has not been robustly incorporated, raising concerns about long-term privacy in the digital realm.
4. **Surveillance Concerns:** While security is a legitimate state interest, there remains a delicate balance between surveillance for public safety and the risk of creating a 'surveillance state' that intrudes into personal life.

BALANCING PRIVACY WITH OTHER RIGHTS AND STATE INTERESTS

REASONABLE RESTRICTIONS AND PROPORTIONALITY

NO RIGHT IN A CONSTITUTIONAL DEMOCRACY is absolute. The right to privacy, while fundamental, is subject to reasonable restrictions. These restrictions are justified when they serve a legitimate state interest, such as:

National Security: Measures to protect the sovereignty and integrity of the nation.

Public Order: Ensuring that the exercise of individual rights does not disturb societal harmony.

Prevention of Crime: Surveillance and data interception, when conducted with due process, may be necessary to prevent and investigate criminal activities.

Public Health: In exceptional circumstances, restrictions on privacy might be justified for protecting public health or ensuring the well-being of the community.

The Test of Proportionality and Legitimacy

The Puttaswamy judgement set out a clear test for any interference with the right to privacy. This test requires that:

Legality: The action must be sanctioned by law.

Legitimate Aim: There must be a clear, legitimate aim behind the action.

Proportionality: The interference must be proportionate to the need – not excessive in relation to the objective pursued.

Procedural Safeguards: There should be adequate procedures in place to prevent abuse and ensure accountability.

By applying these criteria, courts have sought to balance the individual's right to privacy with the needs of the state and society at large.

GOVERNMENT SURVEILLANCE AND ITS LIMITS

SURVEILLANCE POWERS UNDER EXISTING LAWS

Indian law provides the government with certain powers to conduct surveillance, primarily for the purpose of maintaining law and order and protecting national security. Key legislative instruments include:

Indian Telegraph Act, 1885: Grants the government power to intercept communications during emergencies or on grounds of public safety.

Information Technology Act, 2000: Empowers the government to monitor digital communications, subject to prescribed conditions and safeguards.

These laws are meant to facilitate effective governance and crime prevention. However, their application must always respect the fundamental right to privacy, as established by the Supreme Court.

The Risk of Misuse

Despite the existence of procedural safeguards, there is an ongoing debate about the potential for misuse of surveillance powers. Unchecked surveillance can lead to:

Intrusion into Personal Life: Constant monitoring may deter individuals from exercising their right to free expression and association.



Suppression of Dissent: Excessive surveillance might be used to target political opponents or social activists, thereby undermining democratic freedoms.

Data Breaches: With the increasing digitalisation of personal data, any breach in surveillance protocols can have far-reaching consequences for privacy and personal security.

The courts have consistently emphasised that any surveillance activity must be justified, necessary, and proportionate to the aim pursued.

THE ROLE OF THE JUDICIARY IN PROTECTING PRIVACY

JUDICIAL ACTIVISM AND PROGRESSIVE INTERPRETATIONS

Indian courts have played a pivotal role in shaping the right to privacy. From the early days of post-independence jurisprudence to the modern era of digital data, the judiciary has progressively expanded the scope of privacy rights through innovative interpretations of existing constitutional provisions. The landmark *Puttaswamy* judgement is a prime example of judicial activism, where the Supreme Court not only acknowledged privacy as a fundamental right but also laid down robust guidelines to ensure its protection.

BALANCING COMPETING INTERESTS

The judiciary's task is to strike a delicate balance between the individual's right to privacy and other competing interests such as freedom of speech, public order, and national security. In cases where these rights conflict, the courts apply the test of proportionality and legitimacy to ensure that any restriction on privacy is justified and minimal. This balanced approach has been essential in maintaining both individual freedoms and societal order.

Conclusion

The right to privacy in India has come a long way from its early days as a mere by-product of personal liberty to becoming a fundamental right recognised by the Supreme Court. Judicial activism, most notably in the *Puttaswamy* judgement, has cemented privacy as an indispensable element of life under Article 21 of the Constitution. Today, the right to privacy is not only about protecting individuals from unwarranted state intrusion but also about safeguarding personal data in an era of rapid digitalization.

To summarize the evolution of right to privacy it can be said that after a very long legal interpretation that has been laid down by the Supreme Court at various point of time, it is adequate enough to come to a conclusion that the Right to Privacy has finally been incorporated into the Part III of the Indian Constitution. Privacy can also be considered to be one of the features of the dignity of an individual and that is why, even the Preamble to the Constitution assures this to every individual person. The Right to Privacy is not just an apparatus in the hands of the State to trespass upon the personal space of the individual but it is also a mechanism through which the State can adequately fabricate institutions that would allow every individual to protect his or her private life. It needs to be understood that the Right to Privacy is important for a consequential utilization of freedom of expression, particularly in this era of digitalization. These judgments related to Right to Privacy will be able to provide a profound implication for the protection of privacy in India. So, Right to Privacy in India has come a long way to be established as an integral part of the Fundamental Rights guaranteed to the citizens of India.

REFERENCES

- Shukla B. M. (1979).The Right to Privacy and Indian Criminal Law.G.L.R.
- Westin Alan F. (1967). Privacy and Freedom. New York: Atheneum.
- Constiitutionalization of Right to Privacy in India in B. P. Sehgal (ed.).
- vivek sood (2021),Thomson' Right to Privacy-Arguing for The People , Thomson Reuters Publication.
- Prof. Priti Saxena (2017),Right to Privacy in India with Reference to Information Technology Era, YS Books International.
- Kiran Deshta (2011,)Right to Privacy under Indian Law, Deep & Deep Publications.
- Dr Sunil Deshta & Dr Kiran Deshta(2011),Practial Advocavy of Law, Generic Publication.
- Dr. Seema Goyal (2023),Right To Privacy (A Critical Study), Capital Publishing House Delhi.



- Gaurav Goyal & Ravinder Kumar (2016), *The Right to Privacy in India: Concept and Evolution*. Partridge India Publisher.
- Bindal, S. (2021). *Evolution of Privacy: From Turbulence to Triumph*. OakBridge Publishing Pvt. Ltd.
- Goyal, G., & Kumar, R. (2016). *The Right to Privacy in India: Concept and Evolution*. Partridge Publishing India (Author Solutions).
- Seervai, H. M. (2015). *Constitutional Law of India* (4th ed., Vols. I–III). Universal Law Publishing.
- Jain, M. P. (2022). *Indian Constitutional Law* (9th ed.). LexisNexis Butterworths.
- Basu, D. D. (2021). *Introduction to the Constitution of India* (26th ed.). LexisNexis.
- Nariman, F. S. (Ed.). (2017). *Right to Privacy Case: Justice K.S. Puttaswamy (Retd.) v. Union of India (2017) 10 SCC 1*. Eastern Book Company.
- Westin, A. F. (1967). *Privacy and Freedom*. Atheneum Publishers.
- Solove, D. J. (2008). *Understanding Privacy*. Harvard University Press.
- Prosser, W. L., Wade, J. W., & Schwartz, V. E. (1988). *Cases and Materials on Torts* (7th ed.). Foundation Press.
- Roosevelt, K. (2018). *The Myth of Judicial Activism: Making Sense of Supreme Court Decisions*. Yale University Press.
- Tripathi, P. K. (2019). *Spotlights on Constitutional Interpretation*. Universal Law Publishing.
- Chandra, R. (2017). *Right to Privacy in India with Reference to Information Technology Era*. Regal Publications.
- Yadav, A. (2023). *Right to Privacy and Data Protection: Special Reference to India*. Bharat Law House Pvt. Ltd.
- Kumar, R. (2019). *Right to Privacy: National and International Scenario*. Asia Law House.
- Rao, B. S. (2018). *Constitutional Rights and Civil Liberties in India*. Thomson Reuters India.