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## POLITICAL ASYLUM- EXAMINING THE POST OFFICE BILL OF 2023 AND THE IMPLICATION ON THE RIGHT TO PRIVACY

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### ABSTRACT

Recently in 2023, the parliament of India consolidated and amended its 125-years old Indian Post Office Act of 1898. The question arise here is what led to the amended of such an old law in the country? It was the frauds, theft, misconduct by the postal official and the old laws applicability that led to the changes. Thus, to understand the comparison between the 1898 and 2023 this research papers dwells with critical analysis of Post Office Act, 2023 and its key changes its criticism on the right to privacy in India. As the new Act gives the power to the authorities to intercept and detain postal items, which raises potential questions on the discretionary power given to the authorities and the individual fundamental right to privacy infringement. To understand the same, will focus firstly on analyzing the provision of the Act and the major changes particularly Sections 9 and 10, which authorize mail interception and limit postal officials' liability.

Privacy's changing concept in the light of evolved technology is the fundamental thing to consider that touches both India and global dimensions. The article traces the development of privacy rights in the Indian law, particularly after the Puttaswamy case, by identifying these changes to data protection measures in the European GDPR rules. And by the way, it also delves into the media's role in the formation of societal dialogue, and gives some where the media distorted the laws, causing the people a wrong interpretation of these laws.

Also, assesses the level of awareness of the Act and the extent of its consent for the public through qualitative research, such as draw out of questionnaires and secondary sources. It also examines the legislative debates and policy challenges that are involved in the balancing of privacy rights and state security. The crux of this study, then, is to give a complete legal interpretation of the Post Office Act, 2023, in the context of India's constitutional framework and world privacy standards.

### 1. Introduction

India, which is known for its vibrant democracy, its legislative system, has undergone through continuous changings to adapt to the shifting needs for its diversity and for its growing population, and for this statement evidence can be traced back from the colonial-era to the contemporary reforms, which just not includes the legal amendments but also the echoes of the voice of a nation in flux.

But with the recent introduction of the Act, passed by the Rajya Sabha has raised a great

interest and curiosity among the citizens. The news I quote, "The Rajya Sabha on December 4 passed the Post Office Bill,2023, that seeks to replace the colonial-era Indian Post Office Act,1898. According to the government, the legislation is an attempt to ensure the effective functioning of the Postal Department as a messenger service and as a provider of banking facilities"<sup>1039</sup>. After introducing this Act,

<sup>1039</sup> AARATRIKA BHAUMIK, Post Office Bill 2023 | State surveillance and privacy concerns explained, *The Hindu*,( 2023,December 19)

many questions were raised by the citizens as well as the opposition MP's. The Act was heavily criticized, also made many citizens confused, for violating the right to privacy. Many people were unaware about the existence Post Office Act, 2023, its features and its legislative history in India, and why was it so much in news?

In this research paper, our point of discussion will be to understand and examine the Post office Act, 2023, and its effects on the citizens and on the legal system, will be looking into various aspects to answer the basic questions in this paper such as, what is Post Office Act, 2023? The concept of term privacy and its roots? Understanding the Right to Privacy in Indian Perspective, Parliamentary debate on the Post Office Act, 2023, Is it legitimate to claim that Post Office Act, 2023 violates Right to Privacy of an individual. After doing the basic findings, after answering them, will discuss about the key issues relating to the topic such as, what are the difficulties does policy makers face while formulating policies in relation with privacy in India as well as worldwide countries? Is it possible to consider right to privacy in India in similar lines with European right to privacy? With proper evidence to draw the similar lines in both the countries on the ground of right to privacy. And to have a clear understanding on the citizens opinion on the Act, a small sample survey was conducted, to understand their opinion and their understanding of the Act. We will try to examine the possible advantages of modernization are then weighed against privacy issues and the possibility of power abuse in the country. This research paper is not legal advice; it is provided solely for informational purpose.

## 2. Methodology

In this research paper, a qualitative approach was chosen to investigate the Post Office Act, 2023 and its implications on violation of Right to Privacy. Primary data was collected through a sampling survey, with an aim of understanding public awareness and opinions regarding the

act, where especially law students and professors were the target. In addition to this, secondary data like articles, statutes, parliamentary debates and official websites of concerned organisations and parliament houses of India were also utilized for comprehensive research. The qualitative data collected through survey was carefully analysed and examined to understand the level of awareness and perception among the people about the act. The survey included technical questions and opinion-based questions, whereby technical questions to analyse awareness among people and opinions to understand their way of perception and interpretation. The findings were taken from both primary and secondary sources to examine the Post Office Act, 2023, its legal history, several types of interpretations given. And additionally, the discussions on the concept Privacy, its roots, and its interpretation in Indian and International Perspective was consider understanding the term in a broader way. The parliamentary debates were also analysed and highlighted to understand various perspectives and arguments presented by the law makers. The combination of qualitative data collection methods and thorough existing literature review, allowed for a detailed analysis of Post Office Bill, 2023 and its implications on violation of Right to Privacy.

## 3. Findings

### 3.1. What is the act?

The Post Office Act, 2023, took the place of the Indian Post Office Act, 1898, which outlined the department's operations and code of conduct. It was replaced in parliament. The 1898 statute, however, had several drawbacks, such as the violation of private property, prejudice in favour of foreign policy, a deficiency in technological improvement, and the power for any authorised official or the Central or State governments to "intercept or detain" any postal product. The first Post Office Act or Statute in British India was created in 1854, following the recommendations of the Post Office Commission, 1850, led by Lord Dalhousie. After both chambers of the measure

was sent to the former President after passing both chambers of parliament. There were minor modifications to the act between 1898 and 2023, despite the introduction of a few stamps and alterations to postal services such as the use of pins.<sup>1040</sup> Later, in 2023, On August 10, 2023, the government introduced the Post Office Act, 2023 in the Rajya Sabha, the Upper House, and it was subsequently passed on December 4, 2023. It was subsequently approved on December 18, 2023, by the Lower House, or Lok Sabha. However, a few Members of Parliament in both chambers expressed concerns about this Act due to certain provisions' lack of clarity.<sup>1041</sup> The principal grievance expressed is that the Act infringes upon the right to privacy, the Rajya Sabha saw its reappearance with modifications to the 1989 statute. For example, the Jan Vishwas (Amendment of Provisions) Act, 2023, removed all penalties and infractions under the 1898 Act. These included a variety of offences committed by workers at post offices. The Act upholds this stance, meaning that no offences or punishments are listed. The Act releases the Post Office from all liabilities pertaining to its services. It states quite clearly that an official must have committed fraud or intentionally caused a loss, delay, or erroneous service delivery to be held accountable. According to Section 10(2) of the Act, post office officers are not responsible for any services provided by the Post Office "unless the Officer acted fraudulently or wilfully caused loss, delay, or mis-delivery of service."<sup>1042</sup> The offending authority faced a maximum term of two years under the revoked Act; it is concerning that the present Act does not carry any of these penalties. However, the central government will have the power to define liability regarding a service under the proposed Rules.

<sup>1040</sup> India Post, *Postal History*, INDIA POST, (19 February 2024, 19:54 IST), <https://www.indiapost.gov.in/VAS/Pages/PostalHistory.aspx>

<sup>1041</sup> DH Web Desk, *Post Office Bill 2023: All you need to know*, DECCAN HERALD, (19 December 2023, 16:11 IST), <https://www.deccanherald.com/india/post-office-bill-2023-all-you-need-to-know-2817041>

<sup>1042</sup> PTI, *New Post Office Bill Infringes Right to Privacy, 'Act of Surveillance': Opposition in Rajya Sabha*, NewsClick, (Dec 05, 2023), [New Post Office Bill Infringes Right to Privacy, 'Act of Surveillance': Opposition in Rajya Sabha | NewsClick](https://www.newsclick.com/india/post-office-bill-2023-all-you-need-to-know-2817041)

The new Act contains the provisions that allow the centre to intercept, open, or hold any postal item is riddled with exceptions based on security purpose. Under certain conditions, including public order, emergency, friendly relations with foreign governments, public safety, or breaking the Bill's or any other law's provisions, the Bill permits the interception of materials sent via postal mail.<sup>1043</sup> For the reasons, the Central government-appointed officer-in-charge is authorised to "intercept, open, or detain" any postal article. Additionally, the government may dispose of such an item however it sees fit. By notification, the Central government may authorise any Post Office employee to deliver a postal item suspected of carrying a forbidden material to the customs authorities or another designated entity. After that, the customs authority will handle the goods in compliance with the current legal provisions.

### 3.2. Concept of term privacy and its roots

The Term Privacy etymologically comes from the Latin word "Privatus," which originally meant something or anything that sets it apart from what belongs to you personally, what is public, and what belongs to oneself and not to the state. This term points to something that is your own; thus, the notion of privacy or "the right to privacy" as we know it now was born. The Indian judiciary in the matter of right to privacy took influence from the USA Privacy laws.<sup>1044</sup>

The conversation between Warren and Brandies marked the beginning of the US debate over the unalienable right to privacy. There are many of these unalienable rights mentioned in the US Constitution, such as the right to liberty and the pursuit of happiness. These rights should be upheld by government statutes, rules, and regulations, but the US did not have any privacy laws until Warren and Brandies discussed the use of common laws to uphold these rights and safeguard an individual's privacy. Since common laws were the sole accessible remedy

<sup>1043</sup> Governance, *The Post Office Bill, 2023*, Drishtiias, (Dec 23, 2023), [The Post Office Bill, 2023 \(drishtiias.com\)](https://www.drishtiias.com/news-analysis/india/post-office-bill-2023)

<sup>1044</sup> McCreary, L., 2014. *What Was Privacy?*. Harvard Business Review. <https://hbr.org/2008/10/what-was-privacy>

for protecting private issues and contained a right to be free from exposure and harassment, they were used to help. Since common laws were the sole accessible remedy for protecting private issues and contained a right to be free from exposure and harassment, they were used to help. Since the right to privacy was clearly stated in the First Amendment of the Bill of rights and was contingent upon the explicit right to free expression, it may be concluded that the right to privacy was implicit in the US Constitution.

The journey of right to privacy in Europe was a fascinating one that was helped along by the historical, technological developments and societal values particular to Europe. The key point of societal value of privacy in Europe is a stark contrast than the one followed in India, In Europe the concept of privacy developed early and showed in the way society behaved even back then. Their focus on small actions like knocking the door before entering rooms, which was considered the way of the civilized, show us how culturally privacy developed in Europe. Some important laws that set the foundation in Europe are:

- 1950: *The European Convention on Human Rights (ECHR) recognizes the right to "respect for private and family life, home and correspondence." This provided a crucial legal framework for privacy protection.*

- 1981: *The Council of Europe Convention 108 becomes the first international treaty on data protection, establishing core principles like fairness, proportionality, and data subject rights.*

Even now Europe is ahead in the development of Privacy laws as discussions have already started on how to tackle artificial intelligence, facial recognition, and the balance between security and privacy.

Europe has one of the strongest Privacy protection and data protection laws (GDPR) and each EU member state has its own data protection laws that complement the GDPR. In 2012 The European Charter of Fundamental Rights was amended which enshrines the right

to data protection as a fundamental right within the EU.

### **3.3 Understanding the Right to Privacy in Indian perspective.**

India has a long history of interpreting the right to privacy in accordance with its constitution. Although there is no law in the constitution regarding the Right to Privacy, when we compared it to the international laws such as, "Article 12 of the Universal Declaration of Human Rights, 1948 and Article 17 of the International Covenant on Civil and Political Rights (ICCPR), 1966, legally protect persons against "arbitrary interference" with one's privacy, family, home, correspondence, honour and reputation."<sup>1045</sup> Were it has clearly been mentioned for the securing of the right to privacy. But the Supreme Court's landmark decisions, especially the historic decision in Justice K. S. Puttaswamy (Retd.) vs. Union of India (2017), validated privacy as an intrinsic part of individual liberty and dignity under the Indian Constitution, even though the explicit mention of privacy as a fundamental right was late. A more robust legal discourse on privacy rights in the nation was made possible by this paradigm-shifting watershed moment.

### **Justice K.S Puttaswamy & Another vs. Union of India and Others [Writ Petition (civil) No. 494 of 2012]:<sup>1046</sup>**

Was held, the foundation of India's "Right to Privacy" jurisprudence is this case. In this case, the nine-judge bench unanimously upheld the right to privacy as a basic freedom guaranteed by the Indian Constitution. The Court decided that the right to privacy was a basic component of liberty, autonomy, and dignity and that it was essential to the freedoms protected by all fundamental rights. The petitioner argued that Article 21 of the Constitution guarantees an individual's right to life and personal liberty, which in turn includes

<sup>1045</sup> United Nations Human Rights Office Of The High Commissioner, International standards: OHCHR and privacy in the digital age, OHCHR (December 2020), <https://www.ohchr.org/en/privacy-in-the-digital-age/international-standards>

<sup>1046</sup> Menaka Guruswamy, Justice K.S. Puttaswamy (Ret'd) and Anr v. Union of India and Ors, Writ Petition (Civil) No. 494 of 2012, *The American Journal of International Law*, Vol. 111, No. 4 (October 2017), <https://www.jstor.org/stable/26568904>

the right to privacy. As the custodian of the people's rights, the Court thus had an obligation to protect this right in addition to the other rights included in Part III. The respondents, through their solicitors, contended that since the Constitution does not specifically guarantee the right to privacy, interpreting it to include the rights to life and personal liberty would amount to judicial overreach. Furthermore, they argued that neither the M.P. Sharma case nor the Kharak Singh case qualified as Article 21 cases. The fundamental lawsuit contests the validity of the government's Aadhar initiative, which uses fingerprints, retina scans, and under twelve-digit unique identity numbers, demographic data is kept. Aadhar data must be connected to citizens' phone numbers, bank accounts, tax returns, and medical records, according to a government decree. There is no law protecting against misuse of the data through unauthorised usage or enabling a person to report alleged misuse.<sup>1047</sup>

Moreover, legislative initiatives to improve individuals' control over their information and govern the use of personal data have been undertaken, such as the enactment of the Personal Data Protection Bill, 2019. But even with these developments, protecting privacy rights in India continues to present difficulties. State monitoring, data breaches, and the relationship between privacy and other fundamental rights are just a few of the complicated problems that face civil society, jurists, and policymakers today. Furthermore, contemporary issues are brought about by the quick digitization of services and the introduction of innovative technology like artificial intelligence, which call for initiative-taking and flexible regulatory solutions. In this situation, comprehending the right to privacy from an Indian standpoint requires a multifaceted approach. It necessitates a thorough comprehension of legal precedents and principles in addition to an appreciation of India's cultural ethos, technological reality, and sociopolitical context.

<sup>1047</sup> Patil Amurta, Puttaswamy Case- Indian Polity Notes, <https://prepp.in/>, (Feb,01,2024), <https://prepp.in/news/e-492-puttaswamy-case-indian-polity-notes>

Furthermore, it is crucial to promote public knowledge and participation to guarantee that privacy continues to be a highly valued. A fundamental right recognised in India by Article 21 of the Constitution is privacy.

### **3.3. Parliamentary debate on The Post Office Act, 2023**

The primary purpose of passing the Post Office Act, 2023 was to replace the Indian Post Office Act of 1898. This bill was 125 years old. On 10 August 2023, Hon'ble Minister of Communications and Information Technology Mr. Ashwini Vaishnaw introduced the bill in Rajya Sabha; there were a few disagreements and arguments raised,<sup>1048</sup> which were later addressed by the Minister; and on 4 December 2023, it was passed with the support of the majority of house members.<sup>1049</sup>

On December 13, 2023, Minister Mr. Ashwini Vaishnaw introduced the Bill in Lok Sabha.<sup>1050</sup> Then, one of the opposition MPs, Mr. Shashi Tharoor, voiced a few concerns and observations about the law, stating that it is a "half-baked reform" that breaches one of citizens' fundamental rights, the right to privacy. He cited a few judgments, including K.S. Puttaswamy vs. Union of India and Shreya Singhal vs. Union of India by the Hon'ble Supreme Court of India, in which the court ruled that the right to privacy is a basic right. In response, the ruling party MP noted that the bill's principal intention is to develop post office legislation and implement new reforms, and that the sections on which concerns have been made are kept solely to protect the country from any type of national threat, not to violate any individual's rights. Unfortunately, on the same day, there was a security breach in the house, with two burglars entering the property

<sup>1048</sup> Rajya Sabha Deb 10 August 2023. *Brief Record of the Proceedings of the Meeting of the Rajya Sabha held on the 10th of August 2023*, Parliamentary bulletin part - I (two hundred and sixtieth session) no. 5685. Available from: <https://sansad.in/rs> [accessed on 19 February 2024]

<sup>1049</sup> Rajya Sabha Deb 4 December 2023. *Brief Record of the Proceedings of the Meeting of the Rajya Sabha held on the 04th of December 2023*, Parliamentary bulletin part - I (two hundred and sixty second session) no. 5691. Available from: <https://sansad.in/rs> [accessed on 19 February 2024]

<sup>1050</sup> Lok Sabha Deb 13 December 2023. *Brief Record of the Proceedings of the Meeting of the Lok Sabha held on the 13th of December 2023*, Lok Sabha bulletin part - I (Agrahayana 22, 1945 (saka)) no. 259. Available from: <https://sansad.in/ls> [accessed on 19 February 2024]

while the session was in progress and using tear gas. However, the MPs collectively defended themselves. As a result, Opposition MPs staged a massive demonstration in Lok Sabha, shouting slogans demanding that Hon'ble Home Minister Mr. Amit Shah quit due to a security lapse. So, on December 13, 2023, no decision was reached on the bill. The same protests lasted several days. On December 18, 2023, Hon'ble Minister of State for Communications, Mr. Devusinh Chauhan, on behalf of Mr. Ashwini Vaishnaw, moved the measure anew. Despite some difficulties, the ruling party responded and, with the support of the majority of house members, the bill was enacted and passed while the demonstrations were still taking place. On the same day, 33 Lok Sabha MPs were suspended for improper behavior in the House.<sup>1051</sup>

Finally, on December 24, 2023, the bill was changed into an act.<sup>1052</sup>

#### **3.4. How does Post Office Act, 2023 violates Right to Privacy?**

The most contentious sections of the new Act are Sections 9 and 10. According to Section 9, the government authorized a few personnel to intercept, open, or hold back any material sent through the post office. The reason for this law's execution is to protect the country's security, maintain healthy ties with other countries, preserve public order, and so on. In the event that an item is intercepted, the government can decide how to handle it. In addition, if a suspected item is discovered, post officers may give it over to the customs department or any other necessary authorities for further action under the law<sup>1053</sup>. And, according to Section 10 of The Post Office Act, 2023, the post office will not be liable for any obligations unless there are explicit provisions requiring them to be, particularly when it comes to postal services. Furthermore, no post office employee will be

held liable for service concerns until and until there is any dishonest or purposeful activity that results in a loss, delay, or delivery to the incorrect place.<sup>1054</sup>

In the Indian Post Office Act of 1898, identical provisions were included in Sections 24, 25, 26. According to Section 24 of the Indian Post Office Act, 1898, if a package or post is suspected of containing an article that is not permitted to be sent through post, the postal officer in charge should notify the owner, i.e. the sender, and request that he or she come to the post office within a certain time frame to open the package or post. If the owner or sender is unable to attend, the package can be opened in their absence. If the Director General of Postal Services decides so, the parcel or letter should be opened in the presence of two witnesses. However, the postal officer in charge should immediately notify the Postmaster General of the package's opening<sup>1055</sup>. And Section 25 states that an officer from the postal department who is in charge and empowered by the Central Government has the ability to look for specific commodities being conveyed via postal services. If any such products are discovered that cannot be sent via postal services, they must be sent to a Central Government-appointed person, and it was also stated that the Central Government has the authority to dispose of those goods or things as directed<sup>1056</sup>. Section 26 of the 1898 Act authorizes the Central Government, State Government, and any authorized officer to intercept or hold any post article or parcel during a public emergency or for the purpose of public safety. However, such interception or detention can be directed or authorized via a written order, which may include indicate how things should be disposed of. If this occurs during an emergency, a certificate from the Central or State Government might be used as proof.<sup>1057</sup>

<sup>1051</sup> Lok Sabha Deb 18 December 2023. *Brief Record of the Proceedings of the Meeting of the Lok Sabha held on the 18th of December 2023*. Lok Sabha bulletin part - I (Agrahayana 27, 1945 (saka)) no. 262. Available from: <https://sansad.in/ls> [accessed on 19 February 2024]

<sup>1052</sup> Rashtrapati Bhavan. *Assent to The Post Office Bill, 2023*. Available from: <https://rashtrapatibhavan.gov.in/bills-assented-president> [accessed on 19 February 2023]

<sup>1053</sup> This Act may be called the Post Office Act, 2023, Section 9, 2023 (India)

<sup>1054</sup> This Act may be called the Post Office Act, 2023, Section 10, 2023 (India)

<sup>1055</sup> This Act may be called the Indian Post Office Act, 1898, Section 24, 1898 (India)

<sup>1056</sup> This Act may be called the Indian Post Office Act, 1898, Section 25, 1898 (India)

<sup>1057</sup> This Act may be called the Indian Post Office Act, 1898, Section 26, 1898 (India)

#### 4. Discussion

##### 4.1. *What difficulties does policy makers face while formulating policies in relation with privacy?*

Creating effective policies is a complex process full of obstacles that policymakers must be carefully and strategically traverse, which involves balancing conflicting interests and projecting long-term effects. We examine the various challenges faced by policymakers in their efforts to create laws and regulations that advance the public interest in this examination of the complexity involved in policy creation, such as it begs the questions, "Why now and not at another time?" "Whose interest is it being formed for?" and "What procedures are involved?"<sup>1058</sup> These kinds of questions encompass a wide range of social, economic, and environmental concerns that come together to form a complex web of political challenges. By shedding light on these difficulties, we may better understand the complex web of variables influencing policy results and the approaches required to overcome them. These difficulties are not only faced by the developing countries more but also worldwide commonly.

Drawing the comparison for the difficulties faced by the Indian policy makers from the rest of the other countries, comes the great obstacles such as the diversity, vibrant democracy, and the society in account. Making sense of the complexities of policymaking is like trying to find your way through a maze of decisions that affect governance and the economy. Making policies takes on a complex nature when it comes to India. Indian policymakers face a multitude of issues that require savvy navigation and creative solutions, from addressing environmental concerns to balancing regional aspirations, from supporting inclusive growth to wrestling with socio-economic imbalances. The difficulties in formulating and assessing public policy by

asking "what is it," "who is involved," "how it is done," and "when/why." And with respect to Right to privacy in India, policy makers have a lot on their plate, especially given how quickly technology and society are changing. Among these challenges are: Technological Complexity: Specialised knowledge is needed to comprehend and regulate innovative technology like artificial intelligence and biometrics. Protecting privacy while promoting innovation and economic expansion are two things that policymakers need to strike a balance on. Global Interconnectedness: Privacy issues cut across national boundaries, requiring cooperation and harmonising laws in many countries. The formulation, execution, and assessment of public policy necessitate a focus on the underlying principle, which is typically the creation of pertinent data to address social issues. The Difficulties Associated with Public Policy Since it is one of the factors that leads to the justification of what practitioners do, the first question in this maze of issues sees the many definitions and gaps as a source of challenges. This is followed by factorial components that dictate the creation of policies.

The danger landscape is constantly changing; therefore, policymakers must protect people's right to privacy while also anticipating and mitigating cyberthreats. Public Perception and Awareness: Because public opinions regarding privacy are ever-changing, legislators must interact with interested parties and inform the public. Regulatory Enforcement and Compliance: Adhering to privacy laws presents practical difficulties that call for strong enforcement protocols as well as assistance in ensuring compliance. Ethical Considerations: When it comes to data use, surveillance, and the fair distribution of privacy rights, policymakers face moral conundrums. A coordinated strategy combining policymakers, technologists, legal experts, corporations, civil society, and the public is necessary to overcome these difficulties. In an interconnected world, policymakers may effectively negotiate the complexity of privacy

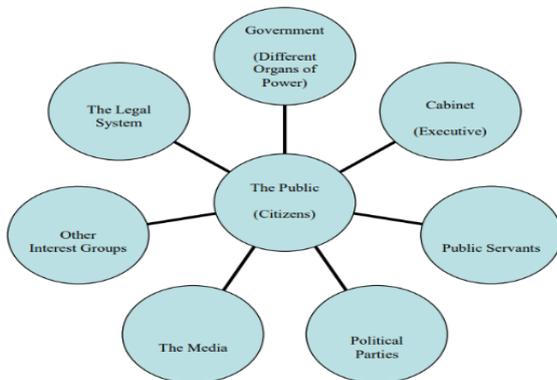
<sup>1058</sup> Thomas Otieno Juma, THE CHALLENGES OF PUBLIC POLICY FORMULATION AND EVALUATION THROUGH THE QUESTIONS "WHAT, WHO, HOW, AND WHEN?", <http://ijecm.co.uk/>, (November 2015), <https://ijecm.co.uk/wp-content/uploads/2015/11/31153.pdf>

regulation by prioritising individual rights, fostering dialogue, and ensuring openness.<sup>1059</sup>

We believe that many readers today must understand that the definition of public policy should not only be limited to topics that are public within states, but that this neo-liberal regime requires an expansion of terminology that recognises the public's expanding global reach. This indicates that developing public policies has a wide range of difficulties, more so than implementing them.<sup>1060</sup>

The below figure 1: highlight the stake holder in the policy cycle which has a profound influence when it comes to policymaking.

Figure 1. Stakeholders in Policy Cycle:



Compiled by Author  
1061

#### 4.2. ***Is it possible to consider right to privacy in India in similar lines with European right to privacy?***

Privacy is a principal human right, but its realization varies over countries due to different legal systems, social standards, and other such factors. Comparing the approaches of India and Europe, especially with the EU's General Data Protection Regulation (GDPR), uncovers both promising openings and critical challenges in adjusting the privacy laws and improving upon them.

Both India and Europe recognize privacy as a crucial right. In India, it is defined under Article 21, whereas in Europe, it is defined under the European Convention on Human Rights and the GDPR.

Both systems point to security against comparable protection intrusions, like illegal information collection, capacity, utilization, and revelation. Person Control:

Both emphasize personal control over individual information through rights like access, rectification, and erasure.

Unlike the GDPR, India lacks a dedicated data protection law. The Information Technology Act (2000) offers limited scope and outdated protections. The GDPR, as a whole, applies to the members of EU, whereas India's system primarily focuses on information inside its borders. Compared to the GDPR's strong enforcement mechanisms, India's are still in the developmental stages and require strengthening and fortifying. While the GDPR doesn't mandate data localization, some Indian regulations restrict data transfers, which may potentially hinder economic opportunities. Enacting data protection laws inspired by the GDPR could provide clearer and more comprehensive privacy protections in India seeing how the EU has one of the most developed privacy laws in the world. But the law should be adapted to India's unique digital literacy challenges and infrastructure disparities to better suit our citizens and their needs. Striking a balance between privacy, security, and economic development is crucial over here to achieving the desired outcome.

Establishing strong enforcement mechanisms with strict penalties is essential to ensure compliance and hold organizations accountable. An increased control over personal data would empower Indian citizens and contribute to responsible data-handling practices

Aligning with global standards could enhance trust in digital services and attract foreign investments. Streamlined data protection

<sup>1059</sup> Farsana s, RIGHT TO PRIVACY: AN INDIAN CONTEXT, Times Of India, (Jun,11,2023), [RIGHT TO PRIVACY: AN INDIAN CONTEXT \(indiatimes.com\)](https://www.indiatimes.com)

<sup>1060</sup> Member's Reference Service Larrdis Lok Sabha Secretariat, New Delhi, No.58/RN/Ref./Nov/2017, [Right to Privacy as a fundamental Right.pdf \(loksabhadocs.nic.in\)](https://www.loksabhadocs.nic.in)

<sup>1061</sup> Thomas Otieno Juma, THE CHALLENGES OF PUBLIC POLICY FORMULATION AND EVALUATION THROUGH THE QUESTIONS "WHAT, WHO, HOW, AND WHEN?", [http://ijecm.co.uk/](https://ijecm.co.uk/), (November 2015), <https://ijecm.co.uk/wp-content/uploads/2015/11/31153.pdf>

frameworks could facilitate smooth cross-border data flows and international collaborations. While differences exist, aligning India's approach to privacy with the European perspective through a contextually relevant data protection law presents a promising future for the state of Indian laws and our idea regarding privacy. It requires careful consideration of various interests, balancing individual rights with security and economic needs.

Ultimately, achieving data privacy convergence holds the potential to empower citizens, strengthen trust, and improve data governance in the digital age. Remember, this is an ongoing debate with evolving perspectives. Engaging in open discussions and seeking diverse viewpoints is key to advancing privacy protections that benefit all.

In seeing all these components, we realize that the difference between the understanding of the word privacy stems from our inherently different cultures. In India, the general public itself is not concerned about the implications of the word privacy. It shows in our culture, which has developed for centuries that India values the family system more than the individualism that is popular in the West. As a family unit, they show up when help is necessary and oftentimes even if not outrightly necessary or asked for. In this, we can observe that India as a whole has a different idea of privacy compared to the West. For example, the Google Incognito Case describes a class-action lawsuit that was brought against Google in 2020. The case claims that the corporation misled consumers about the amount of data that was collected even when users were using Chrome and other browsers in "Incognito Mode" Plaintiffs claimed that even when users switched to "Incognito Mode," which guarantees private browsing, Google continued to gather personal data, including browsing history, location, and device information. It is alleged that Google engaged in misleading activities, breaching both California privacy statutes and users' privacy. According to Google, using

"Incognito Mode" on a user's device removes cookies and saves their browser history, although some data collecting for internal operations and website features still takes place.

Through notices and disclaimers about data-gathering techniques, they emphasized transparency. Without acknowledging any wrongdoing, Google consented to a \$5 billion settlement in February 2024. Those who utilized Chrome in Incognito Mode within the allotted time frame will receive a payout with no ramifications for Google. The case emphasizes how complicated online privacy can be and how important it is to communicate data-gathering procedures more clearly and to have prevalent laws to regulate data protection. It calls into question the usefulness of "Incognito Mode" and user expectations around internet privacy. The settlement acts as a stark financial warning to businesses to put user privacy and openness first. The legal landscape is being shaped by several rules and litigation, all over the world, which are part of the continuous discussion about online privacy and data collecting and how better to protect the citizen's right to privacy Users must constantly be aware of their privacy settings and actively control the sharing of their data between sites.

While this case took place, the reaction of the youth of India was quite the shock in saying they expected this and not to be surprised in any form and no attempt to oppose the violation of privacy that took place. If the people of the country are so used to the idea of data breach there will be slower progress in the regulation of these laws.

#### **4.3. Survey Interpretation**

To analyse the public opinion and to go more deeper and examine the problem a survey was conducted with below questions and responses are also followed by questions:

##### **Questions:**

1. What is the primary objective of the Post Office Act, 2023?

- a.) To violate right to privacy of Citizens
  - b.) To replace the new act with 125-year-old act as per developing society
  - c.) To develop postal services
2. According to the new act, is any postal service officer permitted to open items sent through the Post Office?
    - a.) Yes
    - b.) No
    - c.) Maybe
  3. Do you believe the new act infringes upon the right to privacy?
    - a.) Yes
    - b.) No
    - c.) Not Sure
  4. What is your opinion on the President's consent to this act?
  5. Do you think the Central Government can access all mails and letters without the need for specific acts?
    - a.) Can
    - b.) Cannot
    - c.) Not Sure

**Response:**

The outcome or answer to this technical issue was 50% "to replace the new act with the 125-year-old act as per developing society" and 50% "to develop postal services". But the major reason for posing this question was to see how many people are aware of the new act and its provisions. Though developing postal services was a correct answer in some ways, the most relevant and correct answer was to replace the new act with the old one in accordance with the needs of the evolving society. So, 50% are unaware of the new act and its contents. Like the first question, this was a technical inquiry designed to determine the subject's knowledge of the act. However, there were conflicting responses, with 37.5% saying Yes, postal service workers were allowed to open packages received through postal services, and 37.5% saying they weren't sure. And 25% of the respondents said no, because postal service officers were not allowed to open packages sent through postal services. However, where the correct answer was Yes, it was stated that

postal service officers were authorized to open packages. So, 63% of individuals are unaware of the requirements and fundamental changes introduced by the new statute. If we compare the two responses, we can see that 55% of people are unfamiliar with the legislation and its contents. When it came to question 3, there were mixed reactions, as it was a question in which people may express their opinions. So, 13% of respondents said that the new Post Office Act infringes their privacy rights, while 50% said it did not. And 37% were unsure. In the fourth question, which asked for opinions on the President's consent to the law, 62.5% agreed, 12.5% disagreed, and 25% said they had no idea. Finally, a crucial point was raised regarding the Central Government's ability to read or open any mails or letters without enacting any statutes or acts. The major goal of asking this question was to better understand how individuals perceive government powers. So, again, there was a mixed response, with 37.5% saying the government has such power or capability, 37.5% saying it cannot, and 25% not sure.

The poll results show that individuals are unaware of the Post Office Act, 2023. Only a small number of people are aware of this act and its provisions. Many of the subjects were ignorant, and some answered technical questions incorrectly.<sup>1062</sup>

**5. Conclusion**

It's important to recognize that the claim we're making, of media universally pushing "false narratives" is a complex and controversial one, usually lacking definitive proof and requiring careful analysis. However, after doing our dutiful research on the topic "The Post Office Act 2023", we've come upon one such circumstance where we've conclusive evidence on how media tries pushing their individual biases on the masses. To understand the way media works, we've to shed light upon a few key points.

<sup>1062</sup><https://forms.office.com/Pages/AnalysisPage.aspx?AnalyzerToken=A8GM5WixU8PCh3log0IqaZCKHC3ikBQn&id=ZXera4fDDU2b539WeSUVIEiFEC78o11HuYIFyOtWR-pUODRYWVQ5WkdSMVdJWkNXVvdBOFpWUEFNVS4u>

- Because of ownership, editorial practices, or the viewpoints of individual journalists, media outlets may be inherently biased. This may result in the reporting of data that favors one narrative while downplaying or suppressing data that contradicts it.

- Media organizations may be compelled to convey information in a sensationalized manner, even when it is inaccurate or lacking in depth, to garner attention and hits. This has the potential to mislead readers who value attention-grabbing headlines over in-depth, fact-checked content.

- Information presented out of context can be interpreted incorrectly and have its meaning distorted. This can be done purposefully or accidentally, emphasizing some parts of a problem while ignoring larger components that paint a more complete picture.

- Audiences are prone to accepting narratives that support their worldview without question, even if they are false because they tend to seek out information that strengthens their own opinions.

- Not everyone has the expertise and abilities to assess information critically, leaving them open to manipulation by skewed or false narratives in the media.

In these ways, you will be able to see how the media played a part in pushing these false narratives relating to The Post Office Act 2023.

In the article mentioned above, right from the Headline we see the agenda the media is trying to push on people. The article talks about the removal of PENALTIES AND PROCEDURE (section 49 to section 57) and Other Offences (section 58 to section 69) and how it removed the liability of the post officer who may commit fraud, misrepresentation, and such acts. The actual situation is far from it, the new bill in reality broadens the scope of liability of the employee concerning the services that the Indian post office offers. It doesn't remove the penalties entirely but it has been amended to

allow for better working of the act.<sup>1063</sup> 10. (2) No officer of the Post Office shall incur any liability with regard to a service provided by the Post Office, unless the officer has acted fraudulently or wilfully caused loss, delay or mis-delivery of service.

The above clause covers most of the damages that can be caused by the officer and is allowing for a broader perspective and space for future amendment.

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