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# THE RIGHT TO PRIVACY AFTER CONSTITUTIONAL RECOGNITION: A STUDY OF JUDICIAL INTERPRETATION

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## Abstract

The constitutional recognition of the right to privacy has been considered to be a landmark in Indian constitutional law, changing the balance of power between the individual and the state in a significant manner. This paper attempts to analyse the interpretation of the right to privacy by the judiciary after it was declared to be a fundamental right under Article 21 of the Constitution of India. In doing so, the paper will trace the development of privacy jurisprudence, from being an isolated right based on facts of particular cases, to becoming a holistic right which incorporates personal autonomy, dignity, informational self-determination, and decision-making freedom among other aspects. By means of a doctrinal research of judicial decisions made subsequent to the recognition of the right to privacy, the paper will attempt to critically evaluate how the courts have defined the scope and contours of the said right in various situations, including issues related to surveillance, data security, bodily autonomy and personal decision-making. The paper will also analyse how various constitutional tests like legality, necessity, proportionality, and procedural guarantees have been applied to strike the appropriate balance between the right to privacy and the interest of the state.

## Introduction

The Preamble of the Indian Constitution guarantees all people' equality of position and dignity. Individual dignity has been deemed a key feature of the constitution. Article 21 protects the right to privacy while also upholding the individual dignity outlined in our Constitution's preamble . The constitution's preamble aims to protect individual dignity while emphasising the right to privacy as a cornerstone for ensuring individual liberty and dignity.

The right to privacy in the Indian Constitution is not based on a single provision but grows out of a network of closely connected fundamental rights. Over time, the Supreme Court has interpreted Article 21 in a broad and dynamic

way, recognising] that the right to life and personal liberty includes the right to live with dignity and autonomy. Alongside this, other constitutional guarantees also strengthen the idea of privacy. Article 19, which protects freedom of speech and expression, allows individuals to think, communicate, and make choices freely. Article 20 ensures protection against self-incrimination, safeguarding a person from being forced to disclose personal information against their will. Similarly, Articles 25, 26, 29, and 30 protect religious and cultural freedoms, giving individuals and communities the space to preserve their identity and way of life. Together, these rights create a protective framework that values personal space, respects

individual choices, and upholds human dignity within India's democratic system.

The purpose of the right to privacy or the right to be left alone came before the Supreme Court for consideration in case of **R. Rajagopal Vs. State of TN**.<sup>401</sup> This case is famously called the auto Shankar case. It seeks to strike a balance between the right to privacy of citizens and the rights of the media to criticize the actions and conduct of government officials. The court ruled that Art. 21 guarantees the "right to privacy" or right to let alone. The court observed certain provisions relating to the definition of privacy, thereby attempting to balance the right to privacy without regard to freedom of expression. These provisions are: Every citizen has the right to privacy, family, marriage, reproduction, motherhood, childbirth and education.

It is the highly accurate articulation of the privilege to privacy as a crucial right ensured by Article 21. In addition, the law provided in this Special Code provides for damages for breach of confidentiality. In other words, you can pursue a civil lawsuit as a solution to a privacy breach. Therefore, the Auto Shankar case establishes solutions to the breach of privacy in public and private laws.<sup>402</sup>

The Supreme Court judgments in the Auto Shankar case, structures the premise of the Indian Privacy law. It perceives security as a basic right ensured by Art.21. This will prompt a public law cure under Articles 32 and 226 of the Constitution. Notwithstanding, the court tracked down that the breach of privacy was the best reason for a common claim for harms and directives. It has set up the starting points of a private lawful activity identifying with privacy in Indian law.

The Auto Shankar verdict is relevant because if the verdict is contrary, many publications about the government and its activities can be

blamed. The court held that the above principles were merely illustrative in nature and that such a comprehensive explanation was not correct.

In relation to rape cases, the court referred to the need to reduce the media's right to publish content in the public domain. In India, the court made it clear that any woman who has been subjected to any kind of assault should mercilessly refrain from publication.

This discussion became relevant in 2013 in a case, **ABC v. Commissioner of Police**.<sup>403</sup> A case has been registered against the police commissioner, Hindustan Times and television news channel Aaj Tak for releasing a preliminary report alleging that his own father sexually abused his daughter. Based on this first leaked information report, the Hindustan Times published the girl's age, region and class. Aaj Tak's staff went ahead and tried to interview the family against their will, transmitting details of their entry into the defendant's home, pictures of the colony where they lived and the defendant's personal information.

The Delhi High Court has been harsh in its criticism of the police. The privilege to privacy under Article 21 is a significant component of the protection of the identity of victims of sexual harassment. Disclosure of this behavior is an unacceptable violation of personal privacy. The court, which also examined the standards of journalistic behavior, stated that information about victims of sexual exploitation did not reveal information that could lead to the disclosure of their identities and the violation of their right to privacy.

It is interesting to note the protection raised by the media in this context, as it relates to the formulation of a framework that works for the Indian right to privacy. The writ petition for violation of fundamental rights is not against private companies because fundamental rights can only be enforced against the state. This is an important argument and to refute it, the

<sup>401</sup> R. Rajagopal v. State of Tamil Nadu(06.10.1994-SC)[heirinafter Auto Shankar]

<sup>402</sup> Rishika Taneja, Sidhant Kumar, Privacy Law,26-27, Eastern Book Company, Lucknow, 2014.

<sup>403</sup> ABC v. Commissioner of Police (Dec. 16, 2015-Del. HC).

court refers to the case **Binny Ltd. v. Sadasivan**.<sup>404</sup> This case was a judgment of the Supreme Court, where fundamental rights are the collective interest of the people not only against the state but also against any organization that conducts public works. In the opinion of the Court, the Press, as the fourth pillar of the State, performed an important public function and thus came in the Article 226 of the Constitution of India.

The right to know, which appears to be implied in the freedom of speech and expression granted by Article 19 (1) (a) of the Indian Constitution, is the direct outgrowth of the idea of an open government.

### 1 Right to Privacy under Art 19 (1) (a)

While Article 19(1)(a) of the Indian Constitution primarily ensures the freedom of speech and expression, it has been increasingly interpreted in conjunction with the right to privacy—especially after the landmark *K.S. Puttaswamy v. Union of India* judgment. In this case, the Supreme Court unequivocally declared privacy to be a fundamental right protected under both Article 19 and Article 21.

The right to privacy reinforces individual autonomy, allowing people to control the extent of personal information they share publicly. True freedom of expression includes the liberty to remain silent or to speak anonymously both of which are facets of privacy. When individuals suspect their private communications are being surveilled or misused, they may engage in self-censorship or refrain from expressing themselves freely. This illustrates how violations of privacy can directly hinder the free exercise of speech and expression.

Article 19(2) outlines the reasonable restrictions that may be imposed on free speech, which

include: Defamation, Contempt of court, Decency or morality, Security of the state, Friendly relations with foreign states, Incitement to an offence, Public order.

The relevancy of restriction must be determined objectively and from the perspective of the public interest, not from the perspective of the people who imposed the sanctions or from abstract observations.<sup>405</sup> This requirement of impartiality incited the Supreme Court to caution judges not to bring their own conclusions in finding the cause of the sanctions. It is not the law that allows control, it is the court that seeks to find rationality for control. A law can be justified, but the restrictions it imposes on the activity of opportunity may not be reasonable. In a few judgments, the court ruled that the law should be upheld by reading Articles 19 and Articles 14 and 21.

The term restraint also includes cases of total prohibition, which, although intended to rob an individual of his fundamental rights, can only be established as a reasonable control under certain circumstances.<sup>406</sup> However, breaches of privacy do not explicitly fall under these categories unless the content in question is considered "indecent" or "immoral." Therefore, privacy violations in publications may not always be restricted under Article 19(2).

The Indian Constitution does not list privacy as a separate fundamental right, judicial interpretations particularly under Article 21 have elevated it to constitutional importance. The judiciary has played a crucial role in recognizing and expanding the scope of the right to life to include the right to privacy, thereby filling gaps left by legislative limitations.

### 2. Right to Privacy under Article 21

Initially, the interpretation of Article 21 was limited, focusing strictly on physical liberty. Over the years, however, the Indian judiciary through active judicial engagement has expanded its scope to include various aspects of personal freedom. One of the most significant expansions has been the recognition of the right to privacy as a fundamental right.

<sup>404</sup> SLP(C) No. 6016/2002.

<sup>405</sup> Mohd. Hanif Quareshi v. State of Bihar, AIR 1958 SC 731.

<sup>406</sup> M.B. Cotton Assn. Ltd. v. Union of India, AIR 1954 SC 634.

According to Article 21: "No person shall be deprived of his life or personal liberty except according to procedure established by law."

The recognition of privacy as an intrinsic part of personal liberty owes much to the proactive role of Indian courts. The Allahabad High Court, in the case of **Nihal Chand v. Bhawani Devi**<sup>407</sup>, took the initial step toward acknowledging privacy rights within the Indian legal system. This case highlights a classic tension in Indian law.

**Institutional Privacy:** The 1964 view held that the "privacy of the matrimonial home" should be protected from state interference, but this often meant the state could force a spouse back into that home to "save" the institution of marriage.

**Individual Privacy:** Nihal Chand inadvertently paved the way for individual privacy by establishing the "Reasonable Excuse" doctrine. If a spouse has a right to leave based on "reasonableness," they have a nascent right to decisional integrity.

The law historically viewed the body of a spouse as a "marital right" of the other but now compelled cohabitation is a violation of the "Right to be Let Alone" and bodily integrity.

The case mandates that if a spouse leaves, they must "prove" their reasons to a judge to avoid a decree against them. This requirement forces the disclosure of intimate, private details of a marriage in a public courtroom. You can argue that the procedural standard set in Nihal Chand infringes upon Informational Privacy by requiring a person to "justify" their private choice to live separately.

The Supreme Court first examined privacy explicitly in **M.P. Sharma v. Satish Chandra**,<sup>408</sup> questioning whether powers under Section 96 of the CrPC (Section 103 of The Bharatiya Nagarik Suraksha Sanhita, 2023)<sup>409</sup> for search and seizure infringed on privacy rights under Articles 19(1)(f) and 20. The Court held that Article 20(3) protects against testimonial compulsion

only. Search and seizure do not involve compelling a person to give evidence. Therefore, they do not violate the right against self-incrimination.

In **Kharak Singh v. State of Uttar Pradesh**<sup>410</sup>, serves as the primary historical anchor for the right to privacy in India. The petitioner, Kharak Singh, was a "history-sheeter" under the U.P. Police Regulations. He challenged the constitutional validity of Chapter XX of the U.P. Police Regulations, specifically Regulation 236, which authorized the police to conduct: Secret picketing of the suspect's house.

Night-time domiciliary visits (knocking on doors to ensure the suspect was home). Verification of movements and periodic inquiries by police officers.

The petitioner contended that these actions violated his fundamental rights under Article 19(1)(d) (freedom of movement) and Article 21 (right to life and personal liberty).

### The Majority Opinion: A Literal Interpretation of Liberty

In a landmark decision, a six-judge bench adopted a very strict, literal reading of the Constitution, breaking down their ruling into three main points:

- 1) **Explicit Right to Privacy:** The majority famously concluded that the Indian Constitution simply does not guarantee a "Right to Privacy." They dismissed it as a fleeting emotional state, rather than a legally enforceable fundamental right.
- 2) **The "Inviolable Castle" Doctrine:** On a brighter note, the Court struck down regulation 236(b) which allowed police to make domiciliary visits at night as unconstitutional. Drawing on the classic maxim that "a man's house is his castle," the Court ruled that uninvited intrusion into a home constitutes a physical violation of liberty.

<sup>407</sup> Nihal Chand v. Bhawani Devi (17.04.2015 -SC)

<sup>408</sup> M.P. Sharma v. Satish Chandra (08.03.1954 – SC)

<sup>409</sup> The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), s. 103.

<sup>410</sup> Kharak Singh v. State of Uttar Pradesh (18.12.1962 – SC)

- 3) Physical Over Psychological Freedom: However, the Court failed to recognize the mental toll of surveillance, upholding the right of police to use "secret picketing" and "shadowing." They reasoned that because the police weren't physically stopping someone from moving, no rights were broken, failing to acknowledge that the constant, quiet knowledge of being watched is in itself a massive restriction on freedom.

**The dissent by Justice Subba Rao (joined by Justice Shah)** is considered the most intellectually significant portion of the judgment for modern scholars. It laid the groundwork for the Puttaswamy ruling 54 years later. Justice Subba Rao argued that "Personal Liberty" in Article 21 is not merely the absence of physical restraint (animal existence) but includes all the rights that make up the "personhood" of an individual. He posited that the right to move freely is meaningless if a person is under constant surveillance. The psychological pressure of being "shadowed" prevents an individual from acting freely, thereby violating Article 19(1)(d).

He was the first to suggest that the Right to Privacy is an essential ingredient of liberty, derived from the "penumbras" of Articles 14, 19, and 21.

The landmark case of **Govind v. State of Madhya Pradesh**<sup>411</sup> took the discussion further. The Supreme Court recognized a limited right to privacy as an extension of Articles 19(1)(a), 19(1)(d), and 21. However, it emphasized that such a right is not absolute and could be curtailed in the interest of the public, based on a compelling state interest. Justice Mathew noted that privacy rights must evolve through a case-by-case approach and be balanced against public interest.

### **State of Maharashtra V. Madhukar Narayan Mardikar**<sup>412</sup>

A uniformed police officer visited Banubai's house and demanded sexual favour. He tried to take her away when she refused. She shouted while the police officer was trying to get her. Police officer informed the court that her testimony should not be believed because she was in a state of easy virtue. The court judged him responsible for infringing her right to privacy and rejected the applicant's allegations. It was also established that no one could violate a lady's right to isolation, even if she is a woman of easy virtue.

In **Raj Gopal v. State of Tamil Nadu**<sup>413</sup>, the Court firmly stated that the right to privacy is part of the right to life and personal liberty under Article 21, thus granting it constitutional significance. The case established the individual's "right to be let alone."

The question relating to the right to privacy has led to a related question of the interception of telephones. Phone tapping has been viewed as a serious encroachment of an individual's right to be left alone.

In **RM Malkhani v. State of Maharashtra**<sup>414</sup>, The telephonic discussion between the two parties was taped by the police with one-sided consent. Honorable Supreme Court was of the opinion that it could be used as evidence because the negotiations were voluntary and there was no pressure or coercion to remove it. The fact that the tape recording device was unknowingly attached to the appellant does not make the conversation against him inappropriate. Apex court

held that the court would protect the telephonic conversation of an innocent person with police officers. But not for people who challenge the police for violating this protection law. It falls among the category officers who came before to accept the appropriate process principles in the Menaka Gandhi case.

<sup>412</sup> State of Maharashtra v. Madhukar Narayan Mardikar (1991 - SC)

<sup>413</sup> R. Rajagopal v. State of Tamil Nadu (7.10.1994-SC)

<sup>414</sup> AIR 1973 SC 157.

<sup>411</sup> Govind v. State of Madhya Pradesh (18.11.1975 - SC)

Telephone conversations are an important aspect of a man's personal life, the court clarified. Citizens' telephone conversations are often kept secret, and such conversations take place in the hope of privacy. Therefore, the illegal exploitation of the telephone is a serious violation of the right to privacy and the extension of Article 21 of the Constitution. Telephone interruptions are valid only if they are enforced by a process established by law and such a process is justifiable, fair and reasonable.

In a notable decision in **PUCL Vs. U.O.I**<sup>415</sup> prominently known as Telephone Tapping case. The apex court observed that phone tapping is a genuine attack of a person's entitlement to privacy which is important for the privilege to life and individual freedom cherished under article 21 of Indian Constitution, and it ought not be turned to by the State except if there is public crisis

or interest of public security requires. This decision of apex court, conveyed by a double seat bench including J. Sagir Ahmed and J. Kuldeep Singh,, goes far in ensuring the privilege to privacy of Indian residents and others revered in Article 21 of the Constitution. The court ruled that with the advancement of cutting edge correspondence innovation, the option to direct phone discussions without meddling with the security of one's home or office is being abused. With this in mind, the court will provide detailed guidelines for enforcing the jurisdiction and historically significant jurisdiction under relevant law.

The court has issued comprehensive rules to direct the prudence vested in the State under Section 5 of the Indian Telegraph Act for the reasons for phone tapping and interference of different messages. The court noted that the state has not yet enacted laws to prevent abuse of power. When there are no fair and equitable procedures to regulate the exercise of power under Section 5 (2) of the Indian

Telegraph Act. The rights of citizens guaranteed under Art 21 cannot be protected.

There are several shortcomings in the implementation of orders issued by the State while exercising its powers under the law in the CBI investigation under Article 21 of the Constitution. Section 5 (2) of the Act allows intercepting messages in accordance with the provisions of the Act. Applying the provisions of Section 5 (2) of the Act in the event of "any public emergency" or public emergency or public safety interest. The authorities do not have the power to exercise powers under this Act. The court ruled that a general emergency is a condition that affects the public for an emergency or immediate action. The term 'public safety' has a serious risk or greater risk to the public.

In the absence of these two conditions, telephone tapping cannot be resorted to by the Central Government, State Governments or authorized authorities and the integrity of the country, despite the fulfillment which is essential and beneficial for Sovereignty. Among different orders, the Central Government is fulfilled that it is vital or useful to prevent the power or honesty of the country or to forestall state security or agreeable relations with far off nations or public request.

The message can't be captured or phone tapping will be turned to in case of wrongdoing or for public security or in case of a public crisis. The message cannot be intercepted or telephone tapping shall be resorted to in case of a crime or for public safety.

The Court set down comprehensive rules to direct the prudence vested in the State under Section 5 of the Indian Telegraph Act –

(i) A command for phone tapping<sup>1</sup> can be given exclusively by the Home Secretary of the Central govt. or the State govt.<sup>1</sup> In an earnest case, the force might be appointed to an official of the Home Department of the Central and State govt. not underneath the position of Joint Secretary.

<sup>415</sup> People's Union for Civil Liberties (PUCL) v. Union of India, (18.12.1996-SC)

(ii) The duplicate of the command will be shipped off to the Review Committee within one week of the issuance.

(iii) The request will, except if renewed, stop to have impact toward the finish of two months from the date of issue. The power making the request may survey before that period in the event that it thinks that it is important to proceed with the request regarding Section 5(2) of the Act.

(iv) The authority giving the command will keep up the records of blocked interchanges, the degree the material to be uncovered, no. of people, and their personality to whom the material is unveiled.

(v) The utilization of the blocked materials will be restricted to the base that is vital regarding Section 5(2) the Act.

(vi) The Review Committee will all alone, inside two months, examine whether there is or has been an applicable request under Section 5(2) of the act.

(vii) In the event of examination the Review Committee presumes that there is a contradiction of the arrangements of Section 5(2) of the Act, will put to the side the request. It can likewise coordinate the obliteration of the duplicates of the caught material.

(viii) In the event of examination the Review Committee reaches the resolution that there has been no contradiction of the pertinent arrangement of the Act, it will record the finding with that impact.

In **Amar Singh Vs. Union of India**<sup>416</sup>,<sup>116</sup> Politician Amar Singh has challenged the official tapping of his phone connections and this time the conversations have been made available since publication. When Reliance Infocomm Limited was allowed to block politician Amar Singh's telephone conversations in 2011, the court ruled that Reliance Info comm should have exercised its discretion in advance, without giving any thought to whether the orders given by the

government were valid. All telecom service providers must verify the authenticity of requests from the government to ensure that they are officially issuing official communications. Communication in such matters must maintain the sanctity and accuracy of formal communication, especially when the service provider takes serious action to interrupt private telephone communication between customers.

The judgment of the Supreme Court is based on two approaches. First of all, any person giving an affidavit in court must state that all the facts known to him are true and point out the sources of his information. Second, no person should come to court with unclean hands. The Supreme Court in the Amar Singh case refused to go into the matter as it came to court with unholy hands.

In **Rayla M Bhuvaneshwari Vs. Nagaphamender Rayla**<sup>417</sup> The applicant documented a separation request in court against his better half and demanded the submission of his case seeking the submission of a hard disk relating to his wife's conversations recorded in the US. He rejected some parts of the conversation. The court held that it was illegal for a husband to tap into the conversation without his wife's knowledge and that it added up to an infringement of her entitlement to privacy, as provided in Art.21 of Indian constitution. Although this is true, it can't be acknowledged in the proof. The spouse can't be compelled to take the voice test and the expert is then approached to compare the part she has rejected with the voice she has accepted.

The court saw that the immaculateness of the connection among a couple is the premise of marriage. The spouse was recording her phone conversations with her companions and guardians in India without her insight. This is a reasonable infringement of the spouse's entitlement to privacy. If the husband is of such a nature and doesn't even trust his wife about the conversation with his folks. At that point the

<sup>416</sup> Amar Singh Vs. Union of India(2011) 7 SCC 90

<sup>417</sup> AIR 2008 AP 98.

establishment of marriage itself gets purposeless.

In **Ratan Tata v. Union of India**<sup>418</sup> Ratan Tata has documented an application as per the provisions of Art.32 in the Supreme court, alleging his unofficially published a conversation with corporate lobbyist Miss Neera Radia. The proceedings have a private publication house in question along with the Union of India. G.S. Singhavi, J. on behalf of himself and V.Gopala Gowda, J. ordered CBI to make further investigation with the help of a team of officers from Income-Tax Department.

The case came after a complaint was lodged with the Finance Minister alleging that a foreign intelligence agent had built a business empire worth Rs 300 Crore through anti-national activities within nine years. After that a decision was taken to investigate the matter. Arriving at the Director General of Income Tax (Investigation) (DG (IT)) in Delhi, he accepted the proposal to oversee the telephone lines of Nira Radia and her colleagues. Between 19.8.2008 and 9.7.2009, several such proposals were submitted to the Union Home Secretary and approved from time to time. In the first phase, the observation lasted 120 days, and in the second phase, the observation lasted about 60 days.

However, some significant direction is likely to be received with the prospective determination in view of the prayer before the Court to declare the law with respect to the right to privacy and its enforceability against private parties. Banks and financial institutions, which are the guardian of personal information, have a responsibility to act responsibly when managing it. However, there have been many instances where banks have been asked to release this information or have tried to achieve their own goals.

The expelled provisions were ruled unconstitutional by the Supreme Court for failing the test of rationality provided for in

Articles 14, 19 and 21 of the Constitution. The court ruled that in order for all laws that violate the personal liberties of citizens to become constitutional, they must meet the triple test enacted by the Supreme Court at Maneka Gandhi. The triple test requires "any law that infringes on individual liberties under Article 21" to meet certain criteria.

Firstly, "Procedure must be prescribed.

Secondly, the procedure must endure a test of one or more of the basic rights granted pursuant to Article 19. It must be applicable to a given situation

Thirdly, must also be tested with reference to Article 14 Must be responsible.<sup>419</sup>

The expelled provision was considered a failure in this test. More importantly, the court ruled that the concept of privacy concerns citizens, not places. The meaning of such a statement is that it does not matter that financial records are stored in a citizen's home or bank. If the financial record in question belongs to a citizen, the record is protected under the citizen's right to privacy.<sup>420</sup>

In **Venu v. State Bank of India**,<sup>421</sup> When Venu defaulted on paying Indian State Bank in 2013, the bank threatened to post his photo, name and address in major newspapers if he did not pay. This name and shameful approach to loan recovery was challenged for violating his privacy and public reputation and violating the Constitution.

The Kerala High Court has ruled that the bank has all rights to sue for the realization of dues, but it cannot threaten to disclose the defaulter's name and other details unless statutory allows it. Such measures were allowed under the law only if Venu was declared a proclaimed offender and absconder.

<sup>419</sup> Rakesh Chandra, Right to Privacy in India with reference to the Information Technology

Eral, Ys Books International, New Delhi, 2017, p. 87.

<sup>420</sup> Rishika Taneja, Sidhant Kumar, Privacy Law 36, Eastern Book Company, Lucknow, 2014.

<sup>421</sup> 201.3 (3) KHC 485

<sup>418</sup> AIR 2014 SC (Supp) 827.

In a subsequent case, **Ram Jethmalani and Ors. Vs. Union of India and Ors**<sup>422</sup>, The petition was about unaccountable money that was allegedly in a Swiss bank account. The petitioner tried to access information about an individual named in the CBI SIT report. The question in court was whether the UOI could refuse to disclose such information on the basis of its privacy rights. The court claimed that General Diaspora had the right to know, and mainly forced the state to disclose information to the petitioner. They observed that the right to privacy is a fundamental part of the right to life, and it is essential to allow pockets of freedom free from public scrutiny unless individuals behave in an illegal way. The court ruled that the government was unable to disclose bank accounts to protect the privacy of individuals with Swiss bank accounts. The government can do it only after proving the guilt of a person.

In **KS Puttaswamy Vs. U.O.I.**,<sup>423</sup> This case was related to an infringement of the privacy rights by a unique Indian identification agency while collecting biometric data for the issuance of Aadhaar cards. The question was whether this collection of biometric information was an infringement of the privacy right of citizens under Art.21 of the Constitution.

Chandrachud J., writing multiple opinions, argues that the right to privacy is not irrelevant to the other freedoms guaranteed by Part 3 of the Constitution. It is a component of human nature and an indestructible natural right. He focuses on the information aspect of privacy, human nature and its relationship with autonomy, and rejects the claim that privacy is an elite system.

J. Chandrachud while commenting, mentions some observable facts about the privacy of the computerized economy, the dangers of information mining, a positive commitment to the state, and the requirement for information insurance laws. He has additionally raised significant issues about the -ve & +ve

components of privacy. The previous has an obligation to set up a lawful structure that forbids the state from pointlessly meddling with the security of people, and the last to another.

On the other hand, Chelemeshwar j. Based on the right to privacy, which includes three aspects: Firstly, relating to physical intrusion of the state, Secondly, information privacy that captures unauthorized use of personal information, Thirdly, privacy of choice, or individual autonomy over basic personal choices.

Ultimately, Sapre, centers his assessment around the significance of the preamble to the Constitution and the principles of freedom, dignity and fraternity within it. The court stated that this right could be violated only if three conditions were met. As follows:

- I. There must be a law.
- II. The law should aim to achieve a public purpose and
- III. Public purpose should be proportional to the invasion of privacy.

The court's broad interpretation of the right to privacy has paved the way for broad claims. While the precise boundaries of rights will continue to evolve on a case-by-case basis, it is clear that privacy claims often have to be compared to other competitive interests. In the absence of a defined hierarchy between the various rights guaranteed in Part 3 of the Constitution, the decision in each case will depend on the facts at hand and the judicial interpretation.

**District Registrar and Collector V. Canara Bank**<sup>424</sup> The Court ruled that "the nature of the right being asserted and the way it is brought into play determine whether or not illegitimate intrusions into privacy are excluded".

At this stage, context is crucial for directing meaningful decision-making.. if these elements are important in determining the proper to privacy. They are very important whenever that

<sup>422</sup> (2011) 8 SCC 1

<sup>423</sup> AIR 2017 SC 4161.

<sup>424</sup> District Registrar and Collector v. Canara Bank (07.02.2005 – SC)

right is violated by the state through searches and seizures.

Following the ruling of the Honorable Supreme Court, three themes become apparent.

a. Every person has the right to privacy, and violators face legal repercussions for any illegal infringement of that right.

b. The right to privacy, which shields individuals' privacy from unauthorized government intrusion, is recognized by the constitution.

c. The "right to be let alone" of that individual is not unqualified; it may be lawful to prevent disturbance, criminal activity, or damage to one's morals, health, or other people's freedom and rights.

All of these rights are enumerated as Fundamental Rights in Part III of the Indian Constitution and have remedies under Articles 32 and 226. In order to defend these rights, the Supreme Court of India and other High Courts have extensive jurisdiction to issue writs.

According to Article 13 of the Constitution, the State may declare any law or regulation that infringes upon these rights null and void.<sup>425</sup> These clauses of the Constitution establish the right to privacy. In India, the right to privacy is now a recognized human right, but it is still a part of Article 21. Since a right that isn't stated isn't protected, certain privacy criteria should be set and assessed using a common norm. It was imperative that the theoretical foundations of privacy and its protection be removed immediately.

### Article 14 - Right to Equality

The right to equality guarantees that all individuals are afforded equal treatment under the law. Privacy protections prevent arbitrary and biased judgements that infringe upon an individual's personal autonomy and dignity.

### Article 20 - Protections Regarding Conviction for Offences

Article 20(3) of the Constitution of India embodies the fundamental maxim *nemo tenetur prodere seipsum*, establishing that no person accused of an offense shall be compelled to be a witness against themselves. This privilege against self-incrimination is inextricably linked to the Right to Privacy as recognized in the landmark *Puttaswamy* judgment because it protects the "informational privacy" and mental autonomy of the accused. By prohibiting "testimonial compulsion," the law acknowledges that an individual's private thoughts and personal knowledge constitute a protected zone of liberty that the State cannot forcibly penetrate. Consequently, the protection serves as a constitutional barrier against intrusive investigative techniques, ensuring that the burden of proof remains squarely on the prosecution while upholding the investigative standards of due process and human dignity.

### 3.3.4 Article 32 and Article 226 - Right to Constitutional Remedies

According to Article 32 of the Constitution of India, an individual has the right to exercise his fundamental right against state action. This provision gives the power to the Supreme Court for the issuance of appropriate orders, directives or writings to enforce the fundamental right of the individual. The Supreme Court in **Fertilizer Corporation Kamgar Union v. Union of India**,<sup>426</sup> held that Article 32 of is the basic structure of the Constitution of India because it does not make sense to grant fundamental rights without providing an effective solution to their implementation. "Even in the developing circumstances of the State of India, the constitutional compensation under Article 32 for the implementation of Articles 20 and 21 cannot be suspended. Similarly, the fundamental rights under Articles 15 (2), 17, 21, 23 and 24 can also be transferred against a private act using Article

<sup>425</sup> Kiran Deshta, *Right to Privacy under Indian Law* (New Delhi: Deep & Deep Publications Pvt. Ltd., 2015)

<sup>426</sup> AIR 1981 SC 344.

32<sup>427</sup>. In addition, Article 226 of the Constitution of India empowers the High Courts of all States and Union territories to issue orders, directives or documents appropriate to the exercise of the fundamental and legal rights of persons. The Supreme Court has the power to grant leave to appeal against a judgment, judgment, decision, sentence or order. The Supreme Court has jurisdiction over cases where serious injustice has taken place or there is an important question in the law.

### CONCLUSION

The right to privacy in the Indian digital landscape has transformed from a luxury into a fundamental necessity for maintaining personal boundaries. As our lives move increasingly online from financial transactions to private conversations the Indian Constitution acts as a digital "safety net." The shift toward recognizing privacy as a core right means that the government and corporations can no longer treat personal data as a free resource. Instead, they are becoming legally obligated to respect the "digital space" of every citizen, ensuring that technology enhances our lives without stripping away our anonymity or personal freedom.

The challenge lies in balancing the convenience of the digital world with the protection of our private selves. While we enjoy the benefits of seamless apps and smart services, the constitutional right to privacy ensures that we don't have to sacrifice our identity in the process. It's about maintaining a society where individuals have the power to decide what they share, with whom, and for what purpose. As the digital era continues to evolve, this right will remain the primary defense in keeping our personal lives truly personal, ensuring that "Digital India" remains a free and fair space for everyone.

### Reference

1. Priyanka Dalal & Richa, The Right to Privacy in India: Historical Evolution and

Contemporary Challenges in the Digital Age, Research Review International Journal of Multidisciplinary (2025),

2. Harnirmal Singh, Different Facets of Analysis of Article 21's Right to Privacy in Digital Era, International Journal of Legal Developments & Allied Issues (2022),
3. Privacy in the Digital Era: Reforms and Corrective Actions, 30 Educational Administration: Theory and Practice 3299 (2024),
4. Dr. Anupam Kurlwal & Shreyansh, Evolution of the Right to Privacy in India: Constitutional Perspective and Judicial Approach, ShodhKosh: Journal of Visual and Performing Arts (2024),
5. Asmi Kedare & Dolly Jeswani, Impact of Social Media on Individual's Right to Privacy, Journal of Constitutional Law and Jurisprudence (Year)
6. Rachna Yadav & Rahul Varshney, Recalibrating the Right to Privacy in the Digital Age: Legal Challenges and Constitutional Safeguards in the Era of Technological Intrusion, 5 ShodhKosh: Journal of Visual and Performing Arts 1 (2024),
7. <https://lawvs.com/articles/the-right-to-privacy-in-the-digital-age>
8. [https://www.cnlu.ac.in/wp-content/uploads/2025/05/Safeguarding-Privacy-In-The-Digital-Era-Balancing-Rights-Security-And-Innovation-by-Ms-Adyasha-](https://www.cnlu.ac.in/wp-content/uploads/2025/05/Safeguarding-Privacy-In-The-Digital-Era-Balancing-Rights-Security-And-Innovation-by-Ms-Adyasha-Behera-Mr.-Bhanu-Pratap-Singh.pdf)
9. Behera-Mr.-Bhanu-Pratap-Singh.pdf
10. <https://www.ohchr.org/en/calls-for-input/2025/right-privacy-digital-age>
11. <https://digitalcommons.law.yale.edu/yj/vol77/iss3/2/>

<sup>427</sup> People's Union for Democratic Rights v. Union of India, (1982) 3 SCC 235.

12. <http://articleseconomicstimes.indiatimes.com/2010-06-27/news/27596832-1-data-double-taxationhttps://>
13. <http://crypto.stanford.edu>
14. <https://www.privacyrights.org/print/fs/fs18-cyb.htm>
15. <http://supportgoogle.com/accounts/bin/answer.py?hl=en&answer=32050>
16. <http://searchsecurity.techtarget.com>  
<http://searchwebservices.techtarget.com>
17. <http://searchmobilecomputingtechtarget.com>
18. <http://cis-india.org/internet-governance/publications/privacy-it-act.docx/view>
19. [https://openyls.law.yale.edu/bitstream/handle/20.500.13051/806/Right\\_of\\_Privacy\\_The.pdf](https://openyls.law.yale.edu/bitstream/handle/20.500.13051/806/Right_of_Privacy_The.pdf)





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