

Right to Privacy under the Indian Constitution

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Abstract

The right to privacy has emerged as one of the most significant fundamental rights in modern constitutional law and democratic governance. In India, the concept of privacy has gained increasing importance due to rapid technological advancement, digital communication, surveillance systems, data collection practices, and expanding state and corporate access to personal information. Privacy is closely connected with individual dignity, liberty, autonomy, and personal freedom, making it an essential component of constitutional rights and human rights protection. The paper explores the right to privacy under the Indian Constitution from a legal and constitutional perspective. It explores the evolution of privacy rights through judicial interpretation, constitutional provisions, and landmark judgments delivered by the Indian judiciary. The paper particularly analyzes the significance of the Supreme Court judgment in *Justice K. S. Puttaswamy v. Union of India* (2017), which recognized the right to privacy as a fundamental right under Article 21 of the Constitution of India. The paper also examines the relationship between privacy and other constitutional rights such as freedom of speech, personal liberty, equality, and human dignity. It also examines contemporary challenges related to digital surveillance, data protection, social media, artificial intelligence, biometric identification systems, and cybersecurity in the digital age. The study evaluates the role of constitutional safeguards, judicial activism, and data protection laws in balancing individual privacy rights with national security, public interest, and technological development.

Keywords Right to Privacy, Indian Constitution, Fundamental Rights, Article 21

Introduction

The right to privacy is one of the most important aspects of individual liberty and human dignity in modern democratic societies. Privacy protects the personal autonomy, freedom, and dignity of individuals by safeguarding their personal information, private life, family relationships, communication, and decision-making from unnecessary interference by the State, private organizations, or other individuals. In the contemporary digital age, where technological advancements and digital communication systems have become an essential part of everyday life, the importance of privacy rights has increased significantly. The Constitution of India guarantees several fundamental rights that protect individual freedom and democratic values. Although the term “right to privacy” was not originally mentioned explicitly in the Constitution, the Indian judiciary gradually recognized privacy as an essential component of the right to life and personal liberty guaranteed under Article 21 of the Constitution. Over time, constitutional interpretation and judicial activism expanded the scope of fundamental rights to include protection of personal privacy, dignity, autonomy, and confidentiality. The development of privacy jurisprudence in India has been shaped largely through landmark

judicial decisions delivered by the Supreme Court. Early cases related to surveillance, personal liberty, and individual freedom initiated debates regarding constitutional protection of privacy. However, the most significant development occurred in *Justice K. S. Puttaswamy v. Union of India* (2017), where a nine-judge bench of the Supreme Court unanimously recognized the right to privacy as a fundamental right protected under Article 21 and other constitutional provisions. The judgment established privacy as an intrinsic part of human dignity, liberty, and constitutional morality. The right to privacy includes several dimensions such as bodily privacy, informational privacy, communication privacy, and decisional autonomy. It protects individuals from unauthorized collection, storage, and misuse of personal information. In modern society, personal data is increasingly collected through social media platforms, online transactions, biometric identification systems, surveillance technologies, mobile applications, and digital communication networks. As a result, concerns related to data protection, cybersecurity, and digital surveillance have become major constitutional and legal issues. Technological advancements such as Artificial Intelligence, facial recognition systems, cloud computing, big data analytics, and internet-based services have further complicated the issue of privacy protection. Governments and private corporations often collect vast amounts of personal information for administrative, commercial, and security purposes. While such technologies provide efficiency and convenience, they also raise concerns regarding mass surveillance, misuse of data, identity theft, and unauthorized access to personal information. The Aadhaar scheme and digital identification systems in India have also generated important constitutional debates regarding privacy and data protection. Questions related to consent, surveillance, storage of biometric information, and state access to personal data have highlighted the need for strong legal safeguards and effective privacy regulation. , the right to privacy is not an absolute right. The State may impose reasonable restrictions on privacy in matters related to national security, public order, prevention of crime, and public interest. However, such restrictions must satisfy constitutional principles of legality, necessity, proportionality, and procedural fairness to prevent arbitrary interference with individual rights. International human rights instruments such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) also recognize privacy as a fundamental human right. India, as a democratic constitutional state, has increasingly aligned its legal framework with global standards of privacy protection and human rights governance. Despite judicial recognition of privacy as a fundamental right, several challenges remain regarding effective implementation and enforcement. Rapid technological development, cybercrime, digital surveillance, lack of awareness, and inadequate data protection mechanisms continue to threaten privacy rights in India. Therefore, comprehensive legal frameworks, strong cybersecurity measures, public awareness, and responsible governance are necessary to protect individual privacy in the digital age.

Constitutional Basis of the Right to Privacy

The constitutional basis of the right to privacy in India has evolved primarily through judicial interpretation and constitutional principles related to liberty, dignity, and personal freedom. Although the Constitution of India does not expressly mention the term “right to privacy” as a separate fundamental right, the Indian judiciary has interpreted various constitutional

provisions to recognize privacy as an essential component of individual liberty and human dignity. Over time, the right to privacy has become firmly established as a fundamental constitutional right under Indian law. The foundation of privacy rights in India is closely connected with Part III of the Constitution, which guarantees fundamental rights to citizens and individuals. Among these rights, Article 21 has played the most significant role in the development of privacy jurisprudence. Article 21 states that “No person shall be deprived of his life or personal liberty except according to procedure established by law.” Initially, the interpretation of Article 21 was narrow and limited to protection against unlawful deprivation of life and liberty. However, through judicial activism and constitutional interpretation, the scope of Article 21 was gradually expanded to include various rights necessary for living with dignity, including the right to privacy. The Supreme Court of India has repeatedly emphasized that the right to life under Article 21 does not merely mean physical existence but also includes the right to live with dignity, autonomy, and personal freedom. Privacy is considered an essential part of human dignity because it protects an individual’s personal choices, bodily integrity, family life, communication, and informational autonomy from arbitrary interference. The evolution of privacy rights through judicial decisions can be traced through several landmark cases. In *Kharak Singh v. State of Uttar Pradesh* (1962), the Supreme Court addressed issues related to police surveillance and personal liberty. Although the Court did not explicitly recognize privacy as a fundamental right, it acknowledged that unauthorized intrusion into a person’s private life could violate personal liberty under Article 21. Later, in *Gobind v. State of Madhya Pradesh* (1975), the Supreme Court moved closer to recognizing privacy rights by observing that privacy could be considered a fundamental right derived from Articles 19 and 21 of the Constitution. The Court accepted that privacy protects personal autonomy and freedom from unnecessary state interference. Further developments occurred in cases such as *R. Rajagopal v. State of Tamil Nadu* (1994), where the Supreme Court recognized the right to privacy as part of the right to life and personal liberty. The Court held that individuals have the right to safeguard the privacy of their personal life, family, marriage, and correspondence. The most significant constitutional development came through the landmark judgment in *Justice K. S. Puttaswamy v. Union of India* (2017). In this historic case, a nine-judge bench of the Supreme Court unanimously declared that the right to privacy is a fundamental right protected under Article 21 and other constitutional freedoms guaranteed by Part III of the Constitution. The Court held that privacy is intrinsic to life, liberty, dignity, autonomy, and individual freedom. The judgment recognized privacy as a natural and inalienable right essential for protecting democratic values and constitutional morality. The Court in *Puttaswamy* also explained that privacy includes multiple dimensions such as bodily privacy, informational privacy, decisional autonomy, and communication privacy. It emphasized that individuals have the right to control their personal information and make independent decisions regarding their lives without arbitrary state interference. The constitutional basis of privacy is also connected with other fundamental rights under the Constitution. Article 19, which guarantees freedoms such as freedom of speech and expression, movement, and association, indirectly supports privacy by protecting individual autonomy and

personal choice. Article 14, which guarantees equality before law, also contributes to privacy protection by preventing arbitrary state action and discrimination.

Judicial Interpretation of Privacy Rights

The judicial interpretation of privacy rights in India has played a crucial role in recognizing and expanding the scope of the right to privacy under the Constitution. Since the Constitution of India does not explicitly mention privacy as a separate fundamental right, the Indian judiciary has developed the concept of privacy through constitutional interpretation, judicial activism, and landmark judgments. Over time, the Supreme Court of India has interpreted the right to privacy as an essential component of life, liberty, dignity, and personal autonomy protected under Part III of the Constitution.

The development of privacy jurisprudence in India began with early constitutional cases related to personal liberty and state surveillance. One of the earliest cases discussing privacy was *M. P. Sharma v. Satish Chandra* (1954), where the Supreme Court considered issues related to search and seizure under criminal investigation. In this case, the Court held that the Constitution did not specifically recognize a right to privacy similar to the Fourth Amendment of the United States Constitution. Therefore, privacy was not treated as a distinct fundamental right at that stage.

Another important case was *Kharak Singh v. State of Uttar Pradesh* (1962), which dealt with police surveillance and monitoring of individuals suspected of criminal activities. The Supreme Court examined whether surveillance practices violated personal liberty under Article 21. Although the majority did not expressly recognize privacy as a fundamental right, the Court observed that unauthorized intrusion into a person's home and private life could violate personal liberty. Justice Subba Rao, in his dissenting opinion, strongly supported the recognition of privacy as part of constitutional freedom and dignity.

The judicial approach toward privacy rights evolved further in *Gobind v. State of Madhya Pradesh* (1975). In this case, the Supreme Court acknowledged that privacy could be considered a fundamental right derived from Articles 19 and 21 of the Constitution. The Court recognized that privacy protects personal autonomy, family life, and individual freedom from arbitrary state interference. However, the Court also clarified that privacy is not an absolute right and may be restricted in the interest of public safety and national security.

The interpretation of privacy rights expanded significantly in *R. Rajagopal v. State of Tamil Nadu* (1994), also known as the "Auto Shankar case." The Supreme Court held that the right to privacy is implicit in the right to life and personal liberty under Article 21. The Court recognized that individuals have the right to protect their personal information, family matters, marriage, and private life from unauthorized publication or state interference. This judgment strengthened constitutional protection for personal autonomy and informational privacy.

In *People's Union for Civil Liberties (PUCL) v. Union of India* (1997), the Supreme Court addressed the issue of telephone tapping and surveillance. The Court held that unauthorized telephone interception violated the right to privacy under Article 21 unless conducted according to lawful procedures. The judgment emphasized that privacy in communication is an important aspect of personal liberty and democratic freedom.

The most significant development in Indian privacy jurisprudence came through the landmark judgment in *Justice K. S. Puttaswamy v. Union of India* (2017). In this historic case, a nine-judge bench of the Supreme Court unanimously declared that the right to privacy is a fundamental right protected under Article 21 and other constitutional freedoms guaranteed by Part III of the Constitution. The Court overruled earlier decisions that denied constitutional protection to privacy and firmly established privacy as an intrinsic part of human dignity, liberty, autonomy, and individual freedom.

The *Puttaswamy* judgment recognized multiple dimensions of privacy, including bodily privacy, informational privacy, communication privacy, and decisional autonomy. The Court held that privacy protects personal choices related to family, marriage, reproduction, sexual orientation, food preferences, and individual identity. It also recognized the importance of informational privacy in the digital age where personal data is increasingly collected and processed through technology.

The judgment further established important constitutional principles for restricting privacy rights. The Court held that any state interference with privacy must satisfy the tests of legality, necessity, proportionality, and procedural safeguards. This means that restrictions on privacy must be authorized by law, necessary for a legitimate state objective, proportionate to the purpose, and subject to judicial oversight.

Judicial interpretation of privacy rights has also influenced issues related to digital surveillance, data protection, Aadhaar, social media, Artificial Intelligence, and cybersecurity. Courts increasingly recognize that technological advancements create new threats to privacy and require stronger constitutional safeguards to protect personal information and democratic freedoms.

The Indian judiciary has therefore played a transformative role in expanding privacy rights and strengthening constitutional democracy. Through progressive interpretation of fundamental rights, the courts have recognized privacy as essential for protecting human dignity, liberty, equality, and autonomy in modern society.

Conclusion

The right to privacy has emerged as one of the most significant fundamental rights under the Indian Constitution through progressive judicial interpretation and constitutional development. Although the Constitution of India does not expressly mention privacy as a separate right, the judiciary has expanded the meaning of life and personal liberty under Article 21 to include privacy, dignity, autonomy, and individual freedom. Landmark judgments delivered by the Supreme Court, particularly *Justice K. S. Puttaswamy v. Union of India* (2017), have firmly established privacy as an intrinsic part of constitutional democracy and human rights protection in India. The recognition of privacy as a fundamental right reflects the evolving nature of constitutional law in response to social, technological, and political changes. Privacy protects individuals from arbitrary interference by the State and private entities in matters related to personal information, communication, bodily integrity, family life, and decision-making. It safeguards human dignity and allows individuals to exercise freedom and autonomy in a democratic society. The rise of digital technology, social media, artificial intelligence, biometric identification systems, and online communication has significantly increased

concerns regarding data protection, surveillance, and misuse of personal information. In the modern digital age, informational privacy has become especially important because governments, corporations, and digital platforms collect and process large amounts of personal data. Therefore, constitutional protection of privacy serves as an essential safeguard against excessive surveillance, cyber threats, and unauthorized access to personal information. the right to privacy is not absolute and may be subject to reasonable restrictions in matters concerning national security, public order, prevention of crime, and public interest. However, any restriction on privacy must satisfy constitutional principles of legality, necessity, proportionality, and procedural fairness to prevent arbitrary misuse of state power. Judicial activism has played a vital role in strengthening privacy rights and ensuring constitutional accountability. The Indian judiciary has continuously interpreted fundamental rights in a progressive manner to address contemporary challenges related to technology, digital governance, and individual liberty. This has contributed significantly to the protection of democratic values and constitutional morality. Despite constitutional recognition, several challenges remain in effectively protecting privacy rights in India. Weak data protection mechanisms, cybercrime, digital surveillance, technological misuse, lack of awareness, and rapid technological advancement continue to threaten informational privacy and personal autonomy. Strong legal frameworks, effective data protection laws, cybersecurity measures, and public awareness are therefore necessary to ensure meaningful protection of privacy rights. the right to privacy is an essential part of the constitutional framework of India and a cornerstone of human dignity, liberty, and democratic governance. Protecting privacy in the digital age requires balanced legal regulation, responsible use of technology, judicial oversight, and effective enforcement mechanisms to safeguard individual freedoms while maintaining national security and public interest.

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