

RIGHT TO PRIVACY IN THE DIGITAL PERIOD: A STUDY WITH INDIAN CONTEXT

Gaana N*

ABSTRACT

"Right to Privacy in the Digital Period: A Study with Indian Context" is the basis for the research paper. The two main topics of this essay are advertising and human rights protection. It contains the diverse opinions and analyses of a team of privacy specialists. The papers include forthcoming topics, national and international principles, and a study of bills or laws from the perspective of privacy. We live in an information and technology-driven world. a future where information- is shared quickly and with greater effectiveness. Privacy has certain restrictions and cannot be fixed. Privacy is becoming more and more important as more information is shared online and more data is converted to digital form. With some limitations, the right to privacy is innate to human nature and ultimately perishes with humanity. In order to gain a better understanding of the court's ruling on the matter of the right to protection with regard to Aadhar, several significant portions of the judgment in K.S. Puttaswamy v. Association of India should be viewed from a listed viewpoint. The views of experts and a number of court rulings will be taken into account when interpreting an individual's right to privacy. Not only is privacy still very much in demand, but we also ought to honor it as the most significant of all human rights.

Keywords: Privacy, Digital, Technology, Effectiveness and Information.

INTRODUCTION

One of the cornerstones of fundamental rights in many legal systems across the world, including the Indian Constitution, is the right to privacy. The Indian Constitution's Section 9, which addresses the restoration of marital rights and gives people the option to petition the Supreme Court in the event that their fundamental rights are violated, emphasizes the value of privacy. In the current digital era, privacy has taken on even more importance since it includes safeguarding against unauthorized access to one's personal information and affairs. Privacy in the digital realm is crucial for individuals to lead happy and peaceful lives. Each person

*BA LLB, SECOND YEAR, CMRU SCHOOL OF LEGAL STUDIES.

possesses their own set of secrets and personal information that they prefer not to divulge to others, as it could potentially tarnish their reputation or cause harm. The Supreme Court of India has consistently recognized and upheld the right to privacy, emphasizing its paramount importance in safeguarding individual autonomy and dignity. At its core, privacy delineates the boundaries that individuals establish in their lives, allowing them to maintain control over their personal information and manage their reputation. Social media platforms, while facilitating connections and relationships across geographical boundaries, also serve as platforms for individuals to present themselves to the world. However, the maintenance of privacy remains essential, as it ensures that individuals retain agency over how they are perceived and portrayed online. In the digital age, artificial intelligence (AI) has become a vital instrument for defending individual rights to privacy. Artificial intelligence (AI) systems can improve security protocols and reduce the likelihood of illegal access to personal data by utilizing sophisticated algorithms and data encryption techniques. Artificial intelligence (AI) solutions, such as facial recognition systems and encryption protocols, are essential for maintaining privacy standards and protecting sensitive data from misuse or exploitation. However, the right to privacy is not unqualified and frequently has restrictions. Courts must carefully negotiate the nuances of privacy law in order to strike a balance between competing interests, such as public safety, national security, and the public interest while protecting individual rights without unnecessarily jeopardizing larger social issues. The ruling in the seminal case of *Karby v. Hal Roach*¹ succinctly stated that privacy is the freedom to live one's life without being followed around by prying eyes. Privacy acts as a buffer, protecting people from unjustified prying into their private lives while upholding their dignity and sensibility. Courts play a critical role in maintaining individual liberties and promoting a culture that values personal autonomy and dignity by establishing the sanctity of privacy. One of the main foundations of democracy and individual liberty is the right to privacy. In the digital era, privacy rights must be protected because personal data is more susceptible to exploitation and misuse. The sanctity of privacy must be upheld by societies through judicial activism, technical advancements, and legislative safeguards that allow people to live lives free from unwelcome interference and excessive inspection. The protection of privacy rights will continue to be a crucial concern, needing constant attention and dedication as technology develops and social norms change.

¹ *Karby v. Hal Roach Studios Inc.* (1942) 53 Cal App 2d 207

RESEARCH OBJECTIVES

The objectives of the research are:

1. To examine the concept RIGHT TO PRIVACY.
2. To study the judgments given by Justice K.S. Puttaswamy.
3. To discuss the opinions given by experts and several judges.
4. To assess and understand the effects of the right to privacy and the right to the Internet.

RESEARCH METHODOLOGY

The method of research used by the researcher is doctrinal. The data is collected from articles, journals, and research papers published on various online databases.

CITATION MODE

OSCOLA 4th Edition

SCOPE/LIMITATION OF THE STUDY

The study is restricted to the concept Right to privacy.

LITERATURE REVIEW

1. <https://techcrunch.com/2019/09/26/privacy-queen-of-human-rights-in-a-digital-world/>

The author of this piece focuses on how privacy affects today's digital environment. Technology has put us in a position where data sharing, which is the foundation of the economy, and privacy rights clash. These days, the government and big businesses are obsessed with data and want to know everything about an individual. In actuality, privacy is still a fundamental human right. Without privacy, democracy cannot exist.

2. <https://cis-india.org/internet-governance/blog/privacy/privacy-guwahati-report:>

The author of this site claims that the only thing in life that truly matters is privacy. There is no harm to life and no harm to privacy. Goals related to privacy ignite a spark in society. This blog focuses on the difficulties and worries people have in their day-to-day lives about

privacy. India wants to establish consensus on the declaration of privacy laws in the country through public and legal community consultation.

3. <https://www.eff.org/deeplinks/2017/08/indias-supreme-court-upholds-right-privacy-fundamental-right-and-its-about-time>

According to the author, the right to privacy is likewise upheld by the Supreme Court. The choices made during the previous 60 years have shaped the article. A single-page ruling includes a 547-page reference, numerous court rulings and an expert. The Aadhar card is regarded as a crucial identity and proof document for every Indian government facility that is structured.

4. <https://www.wired.com/insights/2014/04/future-digital-will-change-world/>

The author asks what will happen to the planet if our future is digital. Too many people in this world only have access to online life. Living together: what is it? These days, people perceive the message incorrectly. Creating a WhatsApp group does not guarantee that we are spending valuable time together as a family. Without a doubt, digital gadgets have greatly eased our lives. The gadgets have been enjoyable and practical. There will be a developing crisis to equal success. So many individuals are productively employed. Live in shared planetary life space at all times.

5. <https://www.grin.com/document/591634>

This article examines and discusses privacy's significance. Without privacy, someone could feel timid, refrain from speaking their mind freely and adopt a conservative viewpoint. Social media privacy is crucial to a person's life since it allows him to express himself honestly. Individuals receive grants based on their desires. These days, private settings are available on most social media platforms, including Facebook. Users can choose who can read their profile and receive notifications, for instance, and can establish privacy. Individuals can choose to see who has looked at their profile.

UNDERSTANDING THE LAW POINT

1. Article 19 of the Indian constitution states² that:

1) Protection of rights related to freedom of speech:

(a) Freedom of speech and expression

(b) To assemble peacefully without arms

(c) Formation of association and union

(d) Free movement throughout the territory of India

(e) Settlement and residence within the territory of India

(f) Omitted

(g) Practice professions related to trade, business or any others

2. Article 21 of the Indian Constitution³ states:

Right to life and personal liberty

No person shall be deprived of his life and personal liberty according to the law.

Privacy means the right to be left alone⁴. The right to privacy now is a fundamental

Right, which was declared by the honorable Supreme Court? The main objective of

Article 21 is *right is guaranteed against State action as distinguished from*

Violation of such right by privacy. According to the constitution of India:

“No person shall be deprived of his life or personal liberty except according to the

Procedure established by law”.

² Const of India, 1950, art 19

³ Const of India, 1950, art 21

⁴ The oxford dictionary of law

CONTENT ANALYSIS

Because they are independent creatures, humans have an innate need for privacy and secrecy. This natural desire for privacy and personal space has only grown stronger as civilization has advanced. The importance of privacy has increased in the modern world, as interactions and transactions become more digitally based. Privacy is essential to one's identity and dignity, not merely a luxury. It includes the freedom to determine who has access to and control over one's personal information. People are exposed to unwanted access, exploitation, and even manipulation when they lack privacy. Since privacy is so important, a number of laws and regulations have been passed to protect it. These laws usually set forth the parameters that state agencies and other entities must work within in order to uphold and safeguard the rights of persons regarding their privacy. Organizations are required to manage personal data properly, which includes making sure that it is gathered, processed, and kept in a safe and morally responsible manner. Fundamental human rights, such as privacy, are what allow people to be autonomous and free. It acts as a safeguard against abuse, prejudice, and unauthorized surveillance. The defense of privacy continues to be essential to democratic governance and the promotion of human rights as society struggles with the issues brought forth by developing technology and changing social mores.

PRIVACY IN MODERN ERA- Since privacy data is frequently exchanged passively rather than proactively, strong legal and technological protections are vital. The Indian Constitution's provision of fundamental rights to people is reaffirmed by the historic ruling in Justice K.S. Puttaswamy v. Union of India.⁵ The important legal and sociological reforms that resulted from this landmark decision, stressed that "No person shall be deprived of his life or personal liberty except according to the Procedure established by law," These important rulings set legal precedents that influence how the law is interpreted and applied in the future. In an increasingly digitized world, the Puttaswamy case underscored the significance of preserving peoples' autonomy and dignity by reaffirming the right to privacy as a fundamental right.

METHODS TO PROTECT PRIVACY IN THIS DIGITAL WORLD:⁶

- Use a secure search website
- Check if the website protects private browsing

⁵ Justice K S Puttaswamy (Retd) & Anr v Union of India & Ors [2017] 10 SCC 1

⁶ HP, exploring today's technology for a better tomorrow

- Always remember to clear cookies
- Double-check unfamiliar links
- Be aware of what you share on social media
- Delete all the unused apps
- Deactivate the password save feature
- Keep updating your mobiles and PCs to the latest versions
- Anti-virus protection is a necessary tool

New tools are now available easily for the protection of your personal data.

AADHAAR CARD CASE ⁷:

Justice K.S. Puttaswamy v. Union of India ⁸

- **FACTS:** The case was put forward by Justice Puttaswamy against the Union of India before a bench of nine judges in the Supreme Court, a reference taken from the constitution bench on the topic of the *right to privacy*. The latest case was concerned about the government's Aadhaar scheme which the government proposed and making access to any benefit from the government.

The law generals argued on behalf of the Union of India saying granting specific protection on the right to privacy, should be proper considering the case **M.P Sharma v. Satish Chandra⁹** and **Kharak Singh v. Uttar Pradesh¹⁰**. The court consists of detailed arguments of fundamental rights and theoretical philosophy.

- **JUDGMENT:** The Supreme Court gave a decision saying that the right to privacy is a fundamental right guaranteed under the constitution of India. The judgment upheld a decision saying the Aadhar card acts were constitutionally valid; the act was passed by the parliament even though as a money bill.

⁷ Case study :The case justice K.S.Puttaswamy v. Union of India

⁸ WP(CIVIL) NO. 494 OF 2012

⁹ M.P. Sharma & Ors v Satish Chandra, District Magistrate, Delhi & Ors [1954] AIR 300

¹⁰ Kharak Singh v State of Uttar Pradesh [1963] AIR 1295

RIGHT TO LIFE AND PRIVACY NOW INCLUDES THE RIGHT TO THE INTERNET

With over 90% of daily activities taking place online, the Internet has become an indispensable part of modern life. In order to slow the virus's growth, the COVID-19 outbreak required the broad adoption of online learning and remote work practices. Businesses, schools, and other organizations quickly made the switch to remote operations, requiring staff members and students to work and complete their coursework from home. But not everyone had access to the Internet, which presented problems for people and communities, especially in places like Delhi, India. The demand for Internet connectivity increased as government regulations and the encouragement of remote work were implemented. As a result, some governments made an effort to guarantee fair participation in remote events by offering free or heavily discounted Internet connection. But these initiatives had trouble being implemented, and they weren't always enough. In addition, the dominant telecom providers in India, Jio and Airtel, raised the cost of their data packages in response. The increase in prices made things more difficult financially for people and families who were already struggling with the pandemic's effects on the economy. Disparities in access were exacerbated as many found it more difficult to pay for necessities like Internet connectivity due to declining earnings and other financial limitations. The pandemic's uneven distribution of inexpensive Internet access brought to light larger socioeconomic disparities and the pressing need for both business and governmental duty to provide fair access to basic services. Given the increasing prevalence of remote employment and online learning, closing the digital divide is essential to promoting inclusive growth and crisis resilience. If there is a right to privacy no person has the right to hack which is punishable under *Section 43 of the Information and Technology Act*¹¹ if anyone violates imprisonment for 3 years or a fine up to 5 lakhs. The right to the internet was added as an important right to the constitution from the case of **Faheema Shirni v. State of Kerala**¹² the ruling stated that web access and cell phones are essential components of daily life. Law evolves with civilization and adapts to the contemporary environment.

¹¹ The Constitution of India, 1950, s 43

¹² Faheema Shirin RK v State of Kerala & Ors WP (C) No 19716/2019 (Kerala HC) 19 September 2019

VIEW OF GROUP OF PRIVACY EXPERTS:

The salient feature after the decision by the experts:

- *The concept of privacy needs to be multidimensional and technologically neutral.*
- *The foundation of privacy is fundamental rights alone; privacy commissioners will be the primary authorities for managing privacy.*
- **THE LAWS OF PRIVATE PRIVACY MUST APPLY TO ALL KINDS OF SECTORS, GOVERNMENT AS WELL AS PRIVATE SECTORS**

SUPREME COURT JUDGES DECISIONS AND OPINIONS ON PRIVACY : ¹³

Justice D.Y. Chandrachud, Justices Khehar, R.K. Agrawal, and Abdul Nazeer rendered a historic decision in which they clarified the fundamental connection between an individual's right to privacy and their ability to govern their own personality. They stressed that privacy protects dignity, saying that a life without dignity would be controlled by others and would be anything but normal.

During the review, a number of additional judges shared their opinions on the right to privacy:

1. The right to privacy is the fundamental component of liberties, as Justice Chelameswar emphasized. He underlined that the constitutional barrier that keeps the government from meddling in people's personal affairs is provided by fundamental rights.
2. Justice Bobde emphasized that maintaining dignity depends heavily on Article 21, which enshrines the right to personal liberty. He pointed out that all civilized people's ability to retain their dignity depends on life events like birth and death.
3. Justice Nariman highlighted how technology can empower people, especially those from underprivileged backgrounds. He pointed out those developments like cell phones have made it possible for people to come out to the media and demand their fundamental rights.
4. According to Constitution III, the right to privacy is an essential component of fundamental rights, as Justice Sapre emphasized. He agreed that in order to balance

¹³ The Hindu Newspaper article

conflicting interests, these right needs to be subject to reasonable constraints.

5. Justice Kaul described privacy as a type of dignity and underlined the link between privacy and dignity. He talked about the need to have a "groom brooding spirit," implying that maintaining privacy is necessary to maintain a stable social structure.

All of these viewpoints agree that maintaining an individual's privacy is essential to maintaining their autonomy, dignity, and freedom. By acknowledging privacy as a fundamental component of human existence, the judiciary demonstrates its dedication to protecting citizens' rights and liberties. This thorough understanding of privacy emphasizes how important it is to preserve individual liberty and promote the health of a democratic society. Ultimately, the ruling demonstrates a sophisticated perspective on privacy, recognizing its complex significance in modern society. The judiciary plays a vital role in safeguarding individual rights and promoting a culture of dignity and respect by upholding privacy as a basic right entrenched in the Constitution. The court must continue to modify its jurisprudence as societal norms and technology develop in order to address challenges.

CONCLUSION

One of the most important foundations of personal liberty and dignity is the right to privacy. Today's modern society is defined by a pervasive social culture and easy access to the internet, making it more important than ever to protect one's personal privacy. The widespread use of social media and digital platforms has made people more susceptible to data exploitation and privacy violations. As a result, in the digital age, it is crucial for people to continue being watchful and proactive in protecting their privacy. It takes deliberate measures and conscious effort to maintain privacy in the digital sphere. To safeguard their personal information, people need to exercise caution when using the internet and take the appropriate safety measures. Improving internet security and privacy can be achieved with very easy actions like emptying cookies, not keeping passwords, and routinely scanning devices for unwanted access. Furthermore, people must proceed with caution when communicating with unfamiliar callers or texts. Hackers frequently use phishing techniques, in which they pose as trustworthy organizations in order to obtain private information, to take advantage of gullible people. To reduce the chance of being a victim of a cyber-attack, it is crucial to avoid opening attachments from unknown sources or clicking on dubious links. People should also exercise caution when disclosing personal information online, such as their daily schedules and physical locations.

People who overshare personal information on social media can become targets of identity theft, cyberbullying, and stalking, among other dangers. In order to restrict access to personal information, it is advised to examine and tighten privacy settings on social media profiles. Privacy is important for more reasons than just safeguarding personal information. It includes components of human life such as personality development, human dignity, safety, and willpower. People have the ability to express themselves freely in private without worrying about being judged or having their privacy violated. It gives people a sense of empowerment and security that makes it possible for them to face the challenges of modern life with self-assurance and independence. On the other hand, improper use of digital and social media platforms can seriously harm people's privacy and well-being. Overexposure to internet monitoring and inspection can damage one's self-esteem and destroy personal boundaries. In order to preserve their privacy and mental health, people must therefore find a balance between using social media's advantages for connectivity and setting limits.



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ABBREVIATIONS

1)UAF- Universal Adult Franchise

2)Art- Article

3)Cont- Constitution

4)WP- Writ petition

5)Doc - Document

