



DIGITAL SURVEILLANCE BETWEEN SPOUSES

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This article compares Indian jurisprudence to global standards. Furthermore, it investigates the challenges faced by Indian couples in a significant amount based on Digital Surveillance between spouses. The issues range from consent issues to authenticity. It clearly highlights the dangers of normalising digital snooping in marriages. Even in a marriage, every citizen has the right to privacy. Indian society normalises all digital surveillance in comparison to emotions. This article specifies the causes, constitutional aspects, legal framework, secretly obtained digital evidence, judicial approach, ethical issues, comparative analysis, suggested reforms, and the conclusion.

Keywords: Consent, Digital, Surveillance, Privacy.

INTRODUCTION

Should the right to privacy be absolute between marital partners? Indian law entails the right to life and personal liberty. Under Article 21, every Indian citizen has the right to safeguard their privacy.¹ Talking about privacy in Indian marriages creates harsh facts. Every individual has their own privacy. Especially today in the digital world, where all the intimate conversations take place online. An article significantly highlights the gap between emotional and professional work balance between two individuals in an intimate bond like marriage. According to many customs, marriage is more likely to be emotionally developed rather than being a mature marriage. Today, in many parts of India, marriages are more likely to be agreements and dowry-based. Marriage is a relationship where emotions, privacy, trust, and respect for both are equally important.

Digital surveillance mainly talks about GPS tracking, reading messages without the consent of the respective spouse, installing software like spyware to check on the phone of the spouse, continuously monitoring the phone, having a doubt of extra-marital affairs, using hidden

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recording devices, sharing passwords of accounts present on social media like Instagram, Facebook, and WhatsApp, and unauthorised account access. The major causes of digital surveillance can be suspicious thoughts, actions like domestic violence, child safety, financial secrecy, emotional secrecy between the husband and wife, family disputes between both families, and divorce preparations.

How does the Constitution help to deal with digital surveillance? As Article 21 deals with the Right to privacy, the Supreme Court recognised the fundamental right to privacy, and that an individual has a right to privacy within marriage. Legal frameworks that explain privacy better include the Bharatiya Nyaya Sanhita (BNS), the IT (Information Technology Act, 2000), Bharatiya Sakshya Adhiniyam, and the Digital Personal Data Protection Act. Secretly obtained digital evidence like recordings, screenshots, call recordings, and WhatsApp chats. Judicial approach to privacy. Ethical issues that bridge the controversy of trust and control, psychological consequences, coercive behaviour, digital abuse, and technology-based domestic violence.

UNDERSTANDING DIGITAL SURVEILLANCE BETWEEN SPOUSES

Installing GPS tracking on the spouse's phone to check on their live location disrupts the privacy of the individual. Checking each other's phones, reading messages from anonymous platforms like WhatsApp from the other's phone, and installing spyware to monitor the spouse. In the same way, monitoring social media, or forcing users to share the password of their respective accounts, like Instagram, Facebook, and Threads, and giving unauthorised access to your account is also considered a breach of privacy. Due to the increase in extramarital affairs, thoughts of doubt are generally considered normal. But somewhere, trust matters to have the maturity in a relationship. Today, the increasing rate of divorce has a cause in some such ways.

WHY DOES DIGITAL SURVEILLANCE HAPPEN?

The thought of suspicion arises when, many of the time, disputes remain unresolved, and betrayal of trust takes place in the marriage. Today, in many parts of India, domestic violence and the extension of coercive control over the wife cause a greater chance of digital surveillance; concerns like child safety are increasing day by day because sometimes children are used to monitor the partner through software like parental controls installed on the mobile, which is generally used to prevent children from cyberattacks and games like Blue Whale.

Financial Secrecy: Hiding unauthorised spending and hiding of debts. When such types of secrecy take place, the partner starts digital snooping to check on it. As part of a relationship, balancing the finances is actually considered a mandatory step. On the contrary, emotional insecurity also increases the danger of digital surveillance. When a partner feels insecure, more anxious, and when past disputes remain unresolved; often turn to a sense of digital monitoring. In any relationship, emotional security and emotional trust build trust between two people. It is considered the base for a beautiful bond like marriage, and where it is destroyed by either partner, the marriage can't remain the same for years. A doubt about monitoring and digital surveillance takes the ride slowly.

Other Major Cause: I would like to explain a real-life story of one of my sisters, whose married life was almost at the point of divorce because of their families. At the moment, every married couple has its own privacy. Many of the times, due to family involvement, marriages are destroyed. Today, in the generation of 1BHK flats, with limited family, many husbands and wives are willing to live their married life separately from their families. As a concern, Indian customs talk about the family where the daughter-in-law should live with her husband's family. Some of the time, misunderstandings take place between the families for the sake of interference in the newly married couple.

HOW CONSTITUTION GUIDED?

Article 21 guarantees the fundamental right to the protection of life and personal liberty. It includes the liberty of privacy even within marriage. Three dimensions it specifically mentions are:

- **Informational Privacy:** The right of every citizen to protect their personal data and information which processed. Whether the question is of privacy in the married couple. Every individual has an equal right to protect their data and maintain its privacy.
- **Spatial Control:** A right to protect personal data or information from relatives, family, and partner.
- **Decisional Autonomy:** It gives liberty to make one's own decisions regarding reproduction or childbirth, marriage, gender identity, and medical care.

According to Article 21, "No person shall be deprived of his life or personal liberty except according to the procedure established by law". You have the right to privacy within your marriage from a partner. Constantly checking, monitoring, and keeping control over your

spouse is still considered against the right to privacy. Even though marriage is between two individuals, both have their own individual right to privacy against all the discrepancies. Fundamental rights provide the right to freedom and safety, the right to property, the right to autonomy and privacy, and the right to divorce. Individual rights within marriage ensure that both spouses get their personal dignity and liberty.

LEGAL FRAMEWORK

Bharatiya Nyay Sanhita criminalises the monitoring of a spouse's mobile, viewing such acts as a strict violation of fundamental rights. Section 78 criminalises cyberstalking, and Section 74 addresses the capture of intimate images, and Section 77 considers a violation of the law when observation happens by physical or hidden cameras without the respective person's consent.

Even though every person has the right to privacy, when the same information is collected can be presented as proof. The Bharatiya Sakshya Adhiniyam, 2023 governs how digital records are admitted in the court. It is evidentiary law. The Supreme Court has ruled in several judgments that secretly recorded communications can be considered as proof for family disputes presented in the court. Under Section 128 of the BSA, communications between spouses are protected under the spousal privilege; to reveal it, consent would be taken from both spouses.

Section 66(e) of the Information Technology Act, 2000 (IT Act, 2000) protects violation of privacy; it criminalises the capture of images which might be intentional, violating rules like clicking pictures without consent, and taking videos is illegal. It even includes the transfer of the images.⁹ Under the Digital Personal Data Protection Act, 2023, "An Act to provide for the processing of digital personal data in a manner that recognises both the right of individuals to protect their personal data".

SUGGESTED REFORMS REGARDING DIGITAL SURVEILLANCE BETWEEN SPOUSES

The laws for matrimonial abuse and acts like domestic violence must be strictly adhered to. The laws for digital privacy and data protection should be enhanced. Public awareness and training should be increased, mainly in the remote areas of the country where merely any law is not followed. Yet many women suffer from acts like domestic violence and are threatened and controlled digitally by their husbands. Yet even in the major cities, digital surveillance

takes place in more amount comparatively to than villages in the country. This can be improved by enhancing the training centres in institutions and at workplaces like offices and multinational companies. Strict laws can improve the situation in a better way than now.

CONCLUSION

Digital Surveillance between spouses is the profound clash between trust and technology, where transparency and clarity of misunderstandings can bridge the gap. It specifies the violation of the legal boundaries between spouses. A strong relationship is always built on the base called trust and open communication. Can spousal surveillance be legally or ethically justified as evidence in family law disputes? According to the Bharatiya Sakshya Adhiniyam, 2023, the answer is yes. Under Fundamental Rights, Article 21, violation of privacy can lead to severe punishment, whether it is between two spouses or not. For the law, digital snooping can be a legal ambiguity, but for the potential human mentality, it is a matter of human dignity and trust. This is important in every marriage and relationship.

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