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RIGHT TO PRIVACY IN INDIA: CONSTITUTIONAL EVOLUTION AND CONTEMPORARY CHALLENGES: A STUDY

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"The right to life is the most precious and fundamental right, and is not confined to mere animal existence but includes the right to live with dignity."

— *Maneka Gandhi v. Union of India (1978)*

Abstract

The right to privacy has emerged as one of the most significant fundamental rights in contemporary constitutional jurisprudence, particularly in the digital age. Although the Constitution of India does not expressly recognize the right to privacy, the Supreme Court has interpreted it as an integral part of the right to life and personal liberty under Article 21. This study examines the historical evolution, constitutional foundations, judicial interpretation, and legal framework of the right to privacy in India. It analyses landmark judicial decisions, including *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017), and evaluates the impact of the Digital Personal Data Protection Act, 2023, in strengthening privacy and data protection. The study also discusses emerging challenges posed by technological advancements, digital surveillance, Aadhaar, and personal data processing. It concludes that while India has made significant progress in recognizing privacy as a fundamental right, continuous legislative reforms and effective enforcement mechanisms are essential to safeguard individual autonomy, dignity, and personal data in the evolving digital environment.

Keywords: Right to Privacy, Article 21, Judicial Evolution of Privacy Jurisprudence, Constitution of India

Introduction:

The word 'Privacy' is used frequently in ordinary language as well as in political and legal discussion, yet there is no single definition or analysis of the term. The concept of privacy has grown in leaps and bounds in the present day society¹. With the electronic and telecommunication boom throughout the globe the right to privacy has become more pivotal right. With the burgeoning science and technology, it has become a herculean task for any individual or for that matter the state to protect one's privacy. The Indian judiciary has played a pivotal role in recognizing and protecting the right to privacy as a fundamental right under the Constitution, and its progressive interpretation has significantly influenced the development of privacy jurisprudence in India, particularly in the absence of a comprehensive legislative framework². Privacy is an individual's or gathering's ability to detach or uncover information about themselves specifically. Privacy is not expressly given in accordance with the Constitution; it implies the right to privacy as guaranteed personal freedom under Article 21³.

Right to privacy is a fundamental right. It is a right which protects the inner sphere of the individual from interference from both state and non state actors allows the individuals to make autonomous choices. Privacy is a fundamental human right enshrined in many international treaties. It is important for the protection of human dignity and is one of the important pillars of a democratic country. The landmark judgment in *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017)⁴ marked a turning point in Indian constitutional jurisprudence. A nine-judge bench of the Supreme Court unanimously held that the right to privacy is a fundamental right, protected under Part III of the Constitution. This judgment not only overruled previous decisions that denied privacy as a constitutional right but also laid down a comprehensive framework for its interpretation in contemporary India.

¹ Basu, D. D. (2007). The right to privacy under the Constitution of India. *Journal of the Indian Law Institute*, 49(4), 481–495.

² Mohan, R. (2019). Privacy as a fundamental right: A study of the Puttaswamy judgment. *Journal of the Indian Law Institute*, 61(2), 201–220.

³ Kumar, A. (2018). Right to privacy in India: Constitutional perspectives after the Puttaswamy judgment. *Indian Journal of Constitutional Law*, 11, 1–18

⁴ *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017)



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The right to privacy is limited and can always be curtailed in the public interest as well as for the larger benefit of mankind as a whole. This is the bottom line of the right to privacy, and the States should follow this bottom line while enacting the legislation on the right to privacy⁵.

Meaning of Right to Privacy

Privacy could be abandoned willfully, usually in exchange for obvious benefits and with specific perils and misfortunes all the time, despite the reality that this is a crucial outlook on human links. Scholastics who are company analysts, development scientists, and study clinicians depict uncovering privacy as an 'deliberate penance,' for instance by prepared participants in sweepstakes or rivalries⁶. Talking about its meaning the terms privacy can't be easily conceptualized. It has been taken in different ways in several situations. *Black's Law Dictionary* says that 'right to privacy' is a generic term encompassing various rights recognized to be inherent in concept of ordered liberty, and such rights prevent government interference in intimate personal relationship's or activities, freedoms of individual to make fundamental choices involving himself, his family, and his relationship with others. Privacy has also been described as the rightful claim of the individual to determine the extent to which he wishes to share himself with others and his control over the time, place and circumstances to communicate with others. It means his right to withdraw or to participate as he sees fit. It also means the individual's right to control dissemination of information about himself; it is his own personal possession⁷. It is the right to have publicly available personal information removed from the internet search databases websites or any other public platforms, once the personal information in question is no longer necessary or relevant.⁸

Importance of right to privacy

The importance of the right to privacy has grown significantly in the contemporary digital era due to rapid advancements in information technology, communication systems, and electronic surveillance. The widespread use of smartphones, computers, social media platforms, closed-circuit television (CCTV), biometric systems, and artificial intelligence has increased the risk of both direct and indirect intrusions into an individual's private life. Modern technologies enable the collection, storage, processing, and dissemination of vast amounts of personal information, often without the knowledge or consent of the individual concerned. Consequently, safeguarding personal data and ensuring informational privacy have become essential aspects of protecting human dignity and individual autonomy.

At the same time, the media plays a vital role in promoting transparency, accountability, and public awareness in a democratic society. Through investigative journalism and public interest reporting, the media has exposed corruption, human rights violations, and social injustices, thereby strengthening democratic governance. However, the exercise of media freedom must be balanced with the individual's right to privacy. Excessive media intrusion, sensational reporting, and unauthorized disclosure of personal information may violate privacy rights and harm an individual's dignity and reputation. Therefore, an appropriate balance between freedom of the press and the right to privacy is essential to uphold both democratic values and fundamental human rights.

Concept of Right to Privacy

The concept of 'privacy' originates from the word 'Privi' or 'privy' which means something very secret or assigned to personal uses or something privately known⁹. This shows that there are certain actions or moments in man's life which he wishes to discharge them without any interference from any one, take for instance, talk and sexual intercourse between husband and wife, the delivery of pregnancy" and similar other activities, which every person wants to do without any man's gazing eyes.¹⁰ The insecurity in privacy is increasing with the passage of time and technological advancement. The psychological prison is thrown around a man's life by a complex technology not knowing when and by whom he is being watched or overheard. In Blackstone's time eavesdroppers were known who listened concealing themselves near walls or windows but in our day electronic surveillance has left no aspect of man's life uncovered. The concept of privacy is not a

⁵ M.C. Pramodan, "Right to Privacy" 14 CULR 6 (1990)

⁶ Rakesh Chandra, *Right to Privacy In India With Reference to Information Technology* 98 (YS Book International, New Delhi, 2017)

⁷ AC. Breckenridge, *The Right to Privacy* (1971)

⁸ Narayan, P. (2020). Data protection and the right to privacy in India. *Indian Journal of Law and Technology*, 16, 45–68.

⁹ Matthan, R. (2017). Beyond privacy: Data protection in India. *Indian Journal of Law and Technology*, 13, 1–25.

¹⁰ Bhandari, V. (2018). Privacy as a fundamental right: The Indian constitutional perspective after *Justice K. S. Puttaswamy v. Union of India*. *National Law School of India Review*, 30(2), 45–68



simple or isolated issue. Its protection through law inevitably conflicts with other important values. Privacy is an unusually broad term, encompassing both fundamental Constitutional rights such as freedom from government intrusions into homes and the right of citizens to make decisions about marriage, contraception and abortion and less well defined and arguable less critical issues.

New privacy threats will always rise, as modern technologies and infrastructures will ever grow¹¹. A number of problems have been arisen related to the various aspect of privacy in modern contemporary society. A threat to privacy has been created due to the change in societal structure and developed technology. Gillian Black¹² in his book defines the privacy as "Privacy is a desire of an individual to be free from the other's intrusion". The definition states that every individual is having the right of enjoying his personal choices, his personal affairs free from the interference of other people into it. European Convention on Human Rights in Article defines the privacy as "Every individual has the Right to respect for his family and private life, his home and his correspondence¹³".

This is a huge effort by the Human Right Convention on the international level to define the importance of privacy in an individual's life. The concept of privacy is not old in India. The ancient Indian knowledge theory, based on all literature from Upanishad, prescribes meditation, which must be done without any external disruption. The estates and the 'Arthashastra' show sufficient concern and regard for the privacy of the individual. The use of curtains is defined in the Ramayana and other classical literatures are developed in a certain manner. Private life is the thing that everybody needs to limit to him and other feel crazy in earthing the same.

Origin and Evolution of the Right to Privacy

The need for protection of privacy was felt by human beings from ancient times, however, the concept was not well defined. When we start discussion on the concept and basis of right it becomes necessary to trace its historical development in order to find out universally acceptable definition. The concept of privacy can be traced out in the ancient text of Hindus as well. The need for privacy and its recognition as a right is the product of an increasingly individualistic society in which the focus has shifted from society to the individual. Earlier, the law afforded protection only against physical interference with a person or his property. As civilization progressed, the personal, intellectual and spiritual facets of the human personality gained recognition and the scope of the law expanded to give protection to these needs.¹⁴

The earliest recordings of 'right to privacy' in Indian jurisprudence were in the late 1800s when a local British court upheld privacy of a pardanashin woman to access her balcony without the fear of the neighborhood gaze. The jurisprudence has evolved ever since and the right to privacy was read into 'Article 21' of our Constitution by the Supreme Court as an integral part of 'personal liberty'.¹⁵

Privacy is not a fundamental right was first held by the Hon'ble Supreme Court in the year 1954. In *M.P. Sharma v. Satish Chandra*¹⁶, the Court dismissed the existence of a right to privacy on the basis that the makers of Constitution had not envisaged a fundamental right to privacy.

After nine years, in *Kharak Singh v. State of Uttar Pradesh*¹⁷ majority of the Judges participating in the decision again rejected the right to privacy held that, "our Constitution does not in terms confer any like constitutional guarantee." But minority opinion of Subba Rao J. in *Kharak Singh case*,¹⁸ was in favour of privacy. The silver lining was Justice Subba Rao's dissent, wherein he went on to say "...the right to personal liberty takes in not only a right to be free from restrictions placed on his movements, but also free from encroachments on his private life.

¹¹ Seervai, H. M. (2020). *Constitutional law of India* (4th ed., revised). Universal Law Publishing.

¹² Gillian Black, "Publicity Rights" 2 EPW 8 (2011)

¹³ Kumar, N. (2022). Data protection and privacy law in India: Emerging legal challenges. *Indian Journal of Constitutional Law*, 11(1), 95–118.

¹⁴ Madhavi Goradia Divan, *Facets of Media Law*, 2nd edition, at page no.165

¹⁵ <https://www.theweek.in/content/archival/news/india/brief-history-right-to-privacy.html>

¹⁶ *M.P. Sharma v. Satish Chandra*

¹⁷ *Kharak Singh v. State of Uttar Pradesh*

¹⁸ Subba Rao J. in *Kharak Singh case*



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Privacy jurisprudence was further strengthened. In the case of the infamous gangster, ¹⁹"Auto Shanker" the Supreme Court asserted that in recent times the right to privacy has acquired constitutional status. Later on, after taking note of the above-mentioned cases, the Supreme Court observed: "We have, therefore, no hesitation in holding that right to privacy is a part of the right to life and personal liberty enshrined under Article 21 of the Constitution. Once the facts in a given case constitute a right to privacy, Article 21 is attracted. The said right cannot be curtailed 'except according to procedure established by law.' "²⁰

The term 'right of privacy is generic term encompassing various rights recognized to be inherent in concept of ordered liberty²¹. Right to personal liberty, and the right to move freely and speech could be described as contributing to the right to privacy²².

Legal Framework of the Right to Privacy in India

The right to privacy is part and parcel of the right to dignity and freedom. It is right to enjoy one's life without interference, but that does not mean it is to allow a person to do destructive work. Right to privacy in post-independence era in India, the Constitution does not expressly recognize right to privacy but it has been evolved through judicial precedents. For the first time it was recognized in the case of *Kharak Singh v. State of Uttar Pradesh* (1963)²³. Also, there are various legislations which contain some provisions which one can relate to privacy such as Indian Evidence Act, Information Technology Act, Indian Penal Code, Criminal law, Indian Telegraph Act, Indian Easement Act, Family law. These laws have been discussed in detail in this article. The Right to life within Article 21 is freely interpreted and therefore, it includes all aspects of a life that makes a person's life more meaningful and the right to privacy is one of these rights. This issue was first raised in *Kharak Singh vs. the state of UP* (1962)²⁴, the Supreme Court held that Regulation 236 of the UP Police Regulations violated the Constitution because it violated Article 21 of the Constitution. The Court held that the right to privacy is part of the right to protect life and personal freedom. In this case, the Court equated privacy with personal freedom. *Maneka Gandhi vs. UOI* (1978)²⁵ laid down the triple test for any law interfering with personal liberty: and Puttu Swamy Vs. G.O.1 -2017²⁶. In the case it was held that right to privacy is a fundame3ntal right by the supreme court.

In *Suchita Srivastava v. Chandigarh Administration*,²⁷ a three-Judge Bench of the Supreme Court, headed by Hon'ble Chief Justice, was moved to determine the scope of "woman's right to make reproductive choices" in view of the right to privacy secured as an important facet of right to personal liberty. Court said that it was important to recognize that reproductive choices could be exercised by the woman to procreate as well as to abstain from procreating. Stating that a woman's right to privacy, dignity and bodily integrity, was of crucial consideration, the same should be respected. The right to make a decision about reproduction is essentially a very personal decision either on the part of the man or woman. Necessarily, such a right includes the right not to reproduce. The intrusion of the state into such a decision making process of the individual is scrutinized by the constitutional Courts in this country with great care.²⁸

Constitutional Framework of the Right to Privacy in India

The Constitution of India in general does not have any express provision regarding the Fundamental Right to Privacy but still by the means of judicial decisions the right is said to be under Part III of the Constitution. Following are the provisions which are said to have the provisions related to the 'right to privacy'

Article 19: Freedom of Speech and Expression-Article 19(1) (a) provides that "all citizens shall have the right to freedom of speech and expression." However, this is justified by Article 19(2), which says that it will not influence the implementation of any current law or stop the State from creating any law, insofar as such law imposes reasonable

¹⁹ R. Rajagopal v. State of Tamil Nadu, AIR 1995 SC 264

²⁰ People's Union for Civil Liberties v. Union of India, AIR 1991 SC 207

²¹ Dr. Avtar Singh, College Law Dictionary, 2nd ed.

²² Govind v. State of M.P., AIR, 1975 SC 1378.

²³ Kharak Singh v. State of Uttar Pradesh (1963).

²⁴ *Kharak Singh vs. the state of UP* (1962)

²⁵ *Maneka Gandhi vs. UOI* (1978)

²⁶ Puttu Swamy Vs. G.O.1 -2017

²⁷ *Suchita Srivastava v. Chandigarh Administration*,

²⁸ B.K. Parthasarathi v. State of Andhra Pradesh, AIR 2000 AP 156



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constraints on the practice of the right in the interests of India's sovereignty and integrity, state security, friendly ties with foreign countries, public order, decency or morality.²⁹

Article 21: Right to Life and Personal Liberty-Article 21 of India's constitution gives citizens and non-citizens the right to privacy³⁰. This is not obviously stated in it, but as a statutory justification, the Supreme Court indicated the same. Article 21 of the Constitution states as follows: "No individual shall be denied of his lives or personal freedom except as provided by the procedure established by law." Article 21 is the heart of Indian people's freedom. The terms "procedure created by law" in this article have been the subject of debate since the Indian constitution was enacted. The right strategy that is needed is that, in the sphere of personal freedom, the significance of the operation created by law is not very distinct from that of the due process clause of the Fifth Amendment to the American Constitution³¹.

Judicial Evolution of Privacy Jurisprudence

The judicial development of the right to privacy in India demonstrates a gradual but transformative expansion of constitutional interpretation, where the Supreme Court has played a central role in converting an implied notion of liberty into an explicit and enforceable fundamental right. Right to privacy in today's Digital era, The Constitution of India does not grant in specific and express terms any right to privacy as such. Right to privacy is not enumerated as a Fundamental Right in the Constitution. However, such a right has been culled by the Supreme Court from Art. 21 and several other provisions of the Constitution read with Directive Principles of State Policy.³²

A citizen has a right to safeguard the privacy of his own, his family marriage, procreation, motherhood, child bearing and education among other matters. None can publish anything concerning the above matters without his consent whether truthful or otherwise and whether laudatory or critical.³³ The right to privacy has several aspects. One such aspect is the right to procreate. This is also known as "the right of reproductive autonomy". The right to use condoms, the right of a woman to abort, all these falls within the ambit of right to privacy.³⁴ In *State of Maharashtra v. Madhukar Narayan Gardikar*,³⁵ the Supreme Court protected the right to privacy of a prostitute. The Court held that even a woman of easy virtue is entitled to her privacy and no one can invade her privacy as and when he likes. In *Govind v. State of M.P.*³⁶, this right again came for consideration before the Supreme Court of India, and this time Supreme Court took a more elaborate view and accepted a united right to privacy as an emanation from Articles 19(1)(a), and Article 21.

The judiciary's approach has been instrumental in ensuring that privacy is not just a theoretical right but one that is actively protected in practice. Through cases such as *PUCL v. Union of India* (1997)³⁷, *R. Rajagopal v. State of Tamil Nadu* (1994)³⁸, and the Aadhaar Case (2018), the courts have set clear guidelines for state surveillance, data protection, and personal autonomy, significantly shaping the privacy discourse in India.

Legal Framework of Right to Privacy in India

Right to privacy in India is a peculiar blend of constitutional, customary and common law right scattered over various legal fields. As a customary right it is treated as an easement forming part of statutory law. As a part of our constitutional rights to life and liberty, it is considered to be the illustration of progressive development of human rights and basic freedoms³⁹. Though it has so far not developed as a separate independent tort, its need is being felt by all, as without

²⁹ HM Seervai, *The Constitutional Law in India : A Critical Commentary* 43 (Central book publication, New Delhi, 2003)

³⁰ J.N Pandey, *Constitutional Law of India* 92 (Central Law Agency, New Delhi, 2007)

³¹ *R v. Duarte* (1990) 1 SCR 39

³² M.P. Jain, *Indian Constitutional Law of india* (7th edition, 2014) page no 1168

³³ *R. Rajagopal v. State of Tamil Nadu*, AIR 1995 SC 264

³⁴ M.P. Jain, *Indian Constitutional Law of india* (7th edition, 2014) page no 1169

³⁵ AIR 1999 SC 495

³⁶ *Govind v. State of M.P.*

³⁷ *PUCL v. Union of India* (1997),

³⁸ *Joseph Shine v. Union of India* (2018)

³⁹ Bhandari, V. (2018). Privacy as a fundamental right: The Indian constitutional perspective after *Puttaswamy*. *National Law School of India Review*, 30(2), 45–68.



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its development, emergence of an orderly social order may be delayed. It is, therefore, the recognition of a right of special significance and potentiality, adding a totally new dimension to our democratic and welfare-oriented jurisprudence. Emergence, development and recognition of this right proves that our jurisprudence is dynamic and is constantly evolving and bringing the law closer to the lives of the people. Developing new concepts, ideas, like privacy right is the sure proof that our law is organic, alive and kicking and not dead or static.⁴⁰

Right to privacy as a part of art. 21

Initially the Supreme Court refused to allow the right to privacy as a part of Art. 21 in *Kharak Singh vs. State of U.P.* (AIR 1963 SC 1295). In this case the petitioner's name was recorded in a History sheet maintained by the police on the basis of accusations and the movement of the petitioner was under surveillance. Ayyangar J. speaking for the majority struck down clause (b) of regulation 236 of the U. P. Police Regulations authorising "domiciliary visits" as violative of Article 21 of the Constitution as the said administrative regulations were not backed by authority of any legislation and rejected rest of the challenge to the above referred regulations⁴¹. In the majority judgement, Ayyangar J. held as under: "As already pointed out, the right of privacy is not a right guaranteed under our Constitution and therefore the attempt to ascertain the movements of an individual which is not merely a manner in which privacy is invaded is not an infringement of a fundamental right guaranteed by part III." The Supreme Court has, however, subsequently modified its views & has now recognised 'right to privacy' as a part of Art. 21. In *State of Maharashtra and another vs. Madhukar Narayan Mardikar* (AIR 1991⁴² Supreme Court, 207) the delinquent police officer was dismissed on the ground that he had visited the hutment of one Banubi on the night of 13th November 1965 all alone in police uniform and had tried to ravish her. There was some evidence on record that Banubi was unchaste woman. In the above referred judgement, Ahmadi J. speaking for the Bench of the Hon'ble Supreme Court observed as under: "She was honest enough to admit that dark side of her life. Even a woman of easy virtue is entitled to privacy and no one can invade her privacy as and when he likes. So also it is not open to any and every person as and when he wishes.... She is equally entitled to the protection of law. Therefore, merely because she is a woman of easy virtue, her evidence cannot be thrown overboard."

Privacy and Personal Data

India has established a comprehensive legal framework for the protection of personal data through the enactment of the Digital Personal Data Protection Act, 2023 (DPDP Act, 2023). Prior to this legislation, data protection was primarily governed by the Information Technology Act, 2000, particularly Sections 43A and 72A, along with the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011⁴³. Section 43A provided for compensation in cases where a body corporate failed to implement reasonable security practices, resulting in wrongful loss or gain due to negligent handling of sensitive personal data. Section 72A imposed criminal liability for the disclosure of personal information obtained under a lawful contract without consent and with intent to cause wrongful loss or gain. The 2011 Rules further imposed obligations on entities regarding the collection, processing, storage, transfer, and disclosure of sensitive personal data, requiring prior consent, disclosure of purpose, reasonable security practices, and proper privacy policies.⁴⁴

The Digital Personal Data Protection Act, 2023 marks a significant shift in India's data protection regime by replacing this fragmented framework with a comprehensive statutory mechanism for the processing of digital personal data. The Act is based on key principles such as lawful and transparent processing, consent-based collection, purpose limitation, data minimisation, accuracy, storage limitation, and accountability of Data Fiduciaries. It also recognises important rights of Data Principals, including access, correction and erasure of personal data, grievance redressal, and nomination. Correspondingly, it imposes obligations on Data Fiduciaries to ensure compliance with prescribed data protection and security standards. Although the Act does not specifically regulate direct marketing, such processing must still comply with

⁴⁰ Khosla, Madhav. (2018). Constitutional rights and privacy in contemporary India. *Indian Law Review*, 2(3), 255–274.

⁴¹ Kumar, N. (2022). Data protection and privacy law in India: Emerging legal challenges. *Indian Journal of Constitutional Law*, 11(1), 95–118.

⁴² *Maharashtra and another vs. Madhukar Narayan Mardikar* (AIR 1991

⁴³ Basu, D. D. (2018). The evolution of the right to privacy under the Constitution of India. *Journal of the Indian Law Institute*, 60(3), 289–30

⁴⁴ Westin, A. F. (1967). Science, privacy, and freedom: Issues and proposals for the 1970s. *Columbia Law Review*, 66(6), 1003–1048.



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requirements of valid consent, transparency, and lawful processing, except where permitted under specified legitimate uses. Overall, the DPDP Act, 2023 establishes a modern, rights-based framework that balances individual privacy with the needs of the digital economy⁴⁵

Privacy and Aadhar

Aadhar is a serious invasion into the right to privacy of persons and it has the tendency to lead to a surveillance state where each individual can be kept under surveillance by creating his/her life profile and movement as well on his/her use of Aadhaar. It is important to note that the main privacy concerns brought by the UID project are: territorial and data privacy. The risk that the UID poses to an individual's privacy is enormous, as information that is now scattered in the public domain will be brought into one point of convergence through the UID. Authorities could misuse this information. Further, there are issues of privacy infringement due to the use of biometric information in the project. The Collection of, and identification based on biometric information could be understood as a breach of one's territorial privacy and one's data privacy.⁴⁶

The current focus on the right to privacy is based on the realities of the digital age. India is rapidly becoming a digital economy problems of ID theft, fraud and misrepresentation are real concerns. In recent years, several national programmes and schemes are implemented through information technology platforms, using computerised data collected from citizens. With more and more transactions being done over the Internet, such information is vulnerable to theft and misuse. Therefore any system of data collection should factor in privacy risks and include procedures to protect citizen information

What happens if tomorrow we are told that the right to privacy is not a fundamental right? The right to privacy will lose its status amongst the Golden Trinity of Article 14, Article 19 and Article 21 of the Constitution. These rights can only be taken away from us by just and reasonable law, which is the paramount protection that our Constitution offers us. If privacy is not a fundamental right, this intrinsic right can be taken away by our legal system.⁴⁷ Like in *Gian Kaur case*⁴⁸, a five judge Constitutional Bench held that the "right to life" is inherently inconsistent with the "right to die" as is "death" with "life". Later on, in *Aruna Shanbaug case*,⁴⁹ Hon'ble Supreme Court gave recognition to passive euthanasia which is more popularly referred as mercy killing. Right to privacy is not a fundamental right was first held by the Hon'ble Supreme Court in *M.P. Sharma case*.⁵⁰ And now it has been recognised as Fundamental Right through various judicial pronouncements. What if again Hon'ble Supreme Court declares that Right to privacy is not a Fundamental Right? Hence, this right is not secured until legislation enacts a law protecting right to privacy.

Conclusion:

The right to privacy is recognized as a fundamental human right under several international and regional human rights instruments. The Universal Declaration of Human Rights (UDHR), 1948, laid the foundation for the international protection of privacy. Article 12 of the UDHR provides that no one shall be subjected to arbitrary interference with their privacy, family, home, or correspondence, nor to attacks upon their honour and reputation. It further guarantees the right to legal protection against such interference and attacks.

In India, the recognition of the right to privacy has evolved primarily through judicial interpretation rather than comprehensive legislation. For many years, the country lacked a dedicated legal framework governing privacy and data protection. Through a series of landmark judicial decisions, particularly the Supreme Court's interpretation of the Constitution, the right to privacy has been firmly established as a fundamental right, leading to significant developments in privacy jurisprudence and the enactment of modern data protection laws. The Indian government is in the process of drafting comprehensive data protection laws, particularly following the *Puttaswamy case*. Consider analyzing the Personal Data Protection Bill (PDPB) (currently under review) and its potential impact on privacy rights in India. What are the anticipated challenges in the implementation of such laws, and how might they complement the judiciary's protections of privacy

⁴⁵ <https://www.linklaters.com/en/insights/data-protected/data-protected---india>

⁴⁶ <https://www.legalserviceindia.com/legal/article-34-aadhaar-card-an-invasion-to-privacy.html>

⁴⁷ <https://www.theweek.in/content/archival/news/india/brief-history-right-to-privacy.html>

⁴⁸ *Gian Kaur v. State of Punjab*, AIR 1996

⁴⁹ *Aruna Ramachandra Shanbaug v. Union of India*, (2011) 4 SCC

⁵⁰ *M.P. Sharma v. Satish Chandra* AIR 1954 SC