



ESSAY WRITING

Right to Privacy as a Fundamental Right in India

QUOTES

If we don't act now to safeguard our privacy, we could all become victims of identity theft.

Once you've lost your privacy, you realize you've lost an extremely valuable thing.

There is no world of absolute, complete privacy or a world of complete national security.

Privacy is paradise

Why in News

A case was filed by an actor in the Delhi High Court, pleading to remove the videos that were uploaded on the online platforms, without her consent. The court observed that the **right to privacy** of the woman is to be protected. On the other hand, online platforms questioned their **right to publish**.

Key Points

Judgement: Right to privacy includes the right to be forgotten and the right to be left alone. **About the Right to Privacy:** In **Puttaswamy v. Union of India case, 2017**, the Right to Privacy was declared a fundamental right by the Supreme Court.

Right to privacy is protected as **an intrinsic part of the right to life and personal liberty under Article 21** and as a part of the freedoms guaranteed by Part III of the Constitution.

INTRODUCTION-1

"Man's house is his castle", the mentioned saying implies about inherited "Right to Privacy" in human being. Every human being has certain confidential and superstitious part of their life, which can't be divulged at public domain. The right to privacy has gained momentum throughout the world and it has been recognised as a fundamental right to privacy.



Right to privacy is a right which an individual possesses by birth. Privacy, simply means the right of an individual to be left alone which is recognised by common law.

INTRODUCTION-2

The Constitution of India encompasses Right to Privacy under Article 21, which is a requisite of right to life and personal liberty. Stressing on the term 'privacy', it is a dynamic concept which was needed to be elucidated. The scope of Article 21 is multi-dimensional under the Indian Constitution. Law of torts, Criminal Laws as well as Property Laws also recognize right to privacy. Privacy is something that deals with individual privacy and also which was needed to be protected earlier before the passing of a landmark case, i.e., **K.S. Puttaswamy v. Union of India** in 2017 as it was, previously, not considered a fundamental right under the Indian Constitution. However, our Indian judiciary has, at present, carved out a distinctive precinct regarding privacy and an upshot of that is Right to Privacy, it is, now, recognized as a fundamental right, which is intrinsic under Article 21.

Right To Privacy In India

As already discussed Article 21 of the Constitution of India states that "No person shall be deprived of his life or personal liberty except according to procedure established by law". The right to life enshrined in Article 21 has been liberally interpreted so as to mean something more than mere survival and mere existence or animal existence. It therefore includes all those aspects of life which makes a man's life more meaningful, complete and worth living and right to privacy is one such right. The first time this topic was ever raised was in the case of Kharak Singh v. State of UP where the Supreme Court held that Regulation 236 of UP Police regulation was unconstitutional as it clashed with Article 21 of the Constitution. It was held by the Court that the right to privacy is a part of right to protection of life and personal liberty. Here, the Court had equated privacy to personal liberty.

Support to Right to Privacy

- Ensure the dignity of the individual as mentioned in our Preamble.
- Privacy helps to avoid unwanted and intrusive interference in an individual's personal affairs.
- Without privacy, there would be nothing to stop a Big Brother-like entity from taking control of every aspect of life.
- Rights to liberty and freedom of expression cannot survive if the right to privacy is compromised.
- Mr. Nandan Nilakeni mentions, "We need a larger privacy bill, not just for Aadhaar but also for many other things like privacy in telephone tapping and in other online systems"



•Art.12 of Universal Declaration on Human Rights and Art.17 of the International Covenant on Civil and Political Rights provide for the right of privacy.

Negatives

•It can hinder the implementation and performance of welfare schemes -like Aadhar and Direct Benefits Transfer-which requires personal data of citizens.

•Right to Privacy will also restrict police and intelligence agencies to collect private information about accused, dead persons etc.

Government Steps to Protect Privacy

Personal Data Protection Bill 2019

To provide for protection of privacy of individuals relating to their Personal Data and to establish a Data Protection Authority of India for the said purposes and the matters concerning the personal data of an individual.

Framed on the recommendations of B N Srikrishna Committee (2018).

Information Technology Act, 2000:

Provides for safeguard against certain breaches in relation to data from computer systems. It contains provisions to prevent the unauthorized use of computers, computer systems and data stored therein.

Government's role

- The government's most basic obligation is to protect its citizens' rights.
- Address concerns about data safety, protection from unauthorised interception, surveillance, use of personal identifiers and bodily privacy.
- The data controller should be made accountable for the collection, processing and use to which data are put.
- The government should also provide internal procedural safeguards with independent external monitoring for the protection of rights.
- There needs to be active user education that makes them aware of their choices.



- The government needs to start with aligning its technology laws with the evolving Internet landscape.

Way Forward

- We need a constitutional definition and guarantee of the right to individuality, personal autonomy and privacy in the digital age.
- State must put a robust personal data protection mechanism in place in this digital age
- Recognition of privacy as a fundamental freedom is an essential deterrent against intrusion into personal space.
- Protection to citizens against surveillance

Way Forward

- Balance must be maintained to protect privacy and to promote national interest.
- Impartial investigation and the option of criminal prosecution for gross violation.
- Judicial backing against violation of right to privacy.
- The Right to Privacy shall not be limited against the State, but also a right against the private corporations which collect citizen data.

Conclusion

Right to privacy is a requisite of right to life and personal liberty under Article 21 of the Indian Constitution. Right to privacy is not an absolute right, it may be subject to certain reasonable restrictions for prevention of crime, public disorder and protection of others but, it may, apart from contract, also arise out of a specific relationship that may be commercial, matrimonial or even political and also where there is a conflict between these two derived rights, the one, which advances public morality and public interest, will prevail

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Various Aspects regarding Right to Privacy

- Phone Tapping and Right to Privacy
- Gender Priority on Privacy



- Health and Privacy
- Right to Privacy in context of Privacy by State
- Power to Search and Seizure
- It must prescribe a procedure;
- The procedure must withstand the test of one or more of the fundamental rights conferred under Article 19, which may be applicable in a given situation

Various Aspects regarding Right to Privacy

- It must also be liable to be tested with reference to Article 14." The impugned provision was held to have failed this test. Whether the financial records were stored in a citizen's home or in a bank were not of so much material.
- Privacy in context of Sexual Identities
- Right to Privacy and Security of State
- India implemented a wide range of data sharing and surveillance schemes after the Mumbai attacks in 2008 so as to increase public safety by tackling crime and terrorism.

Various Aspects regarding Right to Privacy

After the implementation of such system, it would be connected to the Telephone Call Interception System (TCIS) which will help monitor voice calls, SMS and MMS, fax communications on landlines, CDMA, video calls, GSM and 3G networks. Other projects and schemes include the Lawful Intercept and Monitoring (LIM) systems, NATGRID, and CCTNS Project, to name a few.

Make sentences using words

 **Commence**

 **Gracious**



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