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CYBER CRIME & ARTICLE 21 EXPANDING THE SCOPE OF RIGHT TO PERSONAL LIFE AND LIBERTY IN THE DIGITAL ERA

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ABSTRACT

With the advent of digitization, there has been an immense evolvement in the area of information technology. Cybercrime which was never in spotlight has become so unprecedented in this present era. This paper evaluates India's judicial framework regarding the Data protection Bill 2019, Right to Privacy, Information Technology and its parallel provisions with Indian Penal Code 1860, and Bhartiya Nyaya Sanhita, 2023. The major focus is how the cyber threats became evident, what were the consequences and how these problems were solved and paid heed to. The major statutes have safeguarded the transparency, accountability and effectiveness. This study addresses the depth of entanglements of privacy in digital age. The Constitution of India under Article 21, protects Right to life and Personal liberty has undergone a great transformation and transition with the passage of time. It has devised on the ancient, medieval, and post independence era. Article 21 has amplified the scope which now includes Right to livelihood, shelter, health and protection of environment, Right to sleep, Right to die, Right to live with personal dignity etc. Supreme Court has played an indispensable role in reshaping the sphere of this particular fundamental right. This paper fosters the vulnerabilities in monitoring the excessive escalation of cyber crimes.

***Keywords*: cyber crime, Constitution, unprecedented, Supreme Court, transformation.**

INTRODUCTION

Article 21 of the Indian Constitution clearly states that "No one shall be deprived of his life or personal liberty except according to procedure established by law". Every human is independent enough to act on his own standards of living, although there are limitations by law as India doesn't have a lassies faire form of Government, but Democracy. These limitations are thereby to prevent the persons from committing crime. Crime is defined as an act or

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omission forbidden or prevented by law. Generally there are four stages of crime- Intention, Preparation, Attempt, Commission. With the advent of our technology and many new upgrading technological development mechanisms there has been a constant increase in the rate of crimes done on internet. Cybercrimes are those crimes which are done with the use of internet. Crime has two elements: ACTUS REUS & MENS REA. The same is applicable in terms of cyber space. There are certain types of cybercrimes such as cyber stalking, cyber fraud, identity theft etc. which breach the privacy and due to this Article 21 needs expansion. Our Indian Constitution guarantees its citizen the six fundamental rights so that the aggrieved citizens whose rights have been infringed can approach the Court through writs and get some possible relief. The Constitution of India has widened the scope of Article 21 which includes prevention of cybercrime under Right to Privacy as dimension under it. This paper aims to cover the ambit of cybercrime, criminals, threats of cybercrimes and the statutes enacted by the Parliament to deal with the ever increasing crimes done with just the click of the button and causing apprehensions throughout the world.

RESEARCH PROBLEM

With the ever increasing advent of digitization at a speed that is procuring threats and causing cybercrimes without even being noticed is rapidly alarming. The cyber threats have undoubtedly affected the status of personal liberty under Article 21[1]. The conventional understanding of Article 21 is inadequate and lags behind owing to consequential response to the threats being faced in modern life.

RESEARCH OBJECTIVES

- To compare India's approach with other nations through an analysis.
- To assess the emerging notion of "digital inclusion."
- To figure out the effectiveness of the current Indian Cyber laws.
- To assess the gaps relates to data breaches.
- To focus on the ambit of Right to privacy and Article 21

[1] The Constitution of India, art. 21

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RESEARCH QUESTIONS

- In today's technology driven society, how has the meaning of "life" and "personal liberty" under Article 21 evolved in the court decisions?
- How long does the new Digital Data Protection Act, 2023 [2]interact with the existing cyber laws such as the Information Technology Act, 2000 [3]and the Bhartiya Nyaya Sanhita, 2023?[4]
- What are approaches India follows towards the data protection and threat to cyber security and the difference with other nations?
- What basically is the new emerging concept of digital inclusion?

RESEARCH METHODOLOGY

This research adopts a structured and systematic approach to explore the dynamic concept of Article 21 of the Constitution of India in the context of cyber crime, with a focus on how the right to life and Personal liberty is being expanded in the digital era. The methodology combines doctrinal and analytical approaches to provide a comprehensive understanding of legal, social, technological dimensions.

1) Doctrinal Research

The doctrinal approach forms the basic foundation of this very research. It involves:

- A detailed study of constitutional provisions, particularly Article 21, and its judicial interpretations in landmark cases such as *Kharak Singh v. State of U.P*, *Shreya Singhal v. Union of India*, and *Puttaswamy v. Union of India*.
- Cyber laws in India including the Information Technology Act, 2000 and its role in regulating online behaviour while protecting individual rights.
- National initiatives, such as the National Cyber Security Policy, 2013, to understand government measures for safeguarding both security and personal liberty.

[2] The Digital Data Protection Act,2023
[3] The Information Technology Act, 2000 (Act 21 of 2000)
[4] The Bhartiya Nyaya Sanhita, 2023, Act No. 45 of 2023

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2) Analytical approach

Alongside this doctrinal study, the research employs an analytical method to critically examine how law and policies operate in practice. This includes:

- Evaluating how regulations affecting online conduct influence the freedom of speech, privacy, and personal liberty.
- Highlighting gaps or ambiguities in current legal provisions that may affect the protection of digital freedoms.

3) Sources of Data

This research relies on both primary and secondary sources:

- **Primary sources** include the Constitution of India, statutes like the IT Act, landmark judgments, government policies, and Human Rights Council.
- **Secondary sources** scholarly articles, books, research papers and Law Commission reports.

EVOLUTIONAL PERSPECTIVE

A. THE BEGINNING OF AN ERA: THE CLASSICAL INTERPRETATION

✓ ***A.K GOPALAN vs STATE OF MADRAS 1950***[5]

The case had a remarkable role in determining the facet of preventive detention in Indian Constitutional law. Although the Supreme Court's interpretation of Article 21 remained a debatable legal issue, it established a precedent for subsequent cases. In addition to upholding the Preventive Detention Act[6], the ruling accelerated the way for further advancements in the field of human rights law. A momentous component of constitutional law, the case also became a point of reference for debates, setting the individual liberties against national security.

B. AMPLIFICATION OF ARTICLE 21

✓ ***Maneka Gandhi v. Union of India***[7]

The Court widened the scope of Article 21 to mandate that any legislation that denies someone their life and freedom must be "just, fair and reasonable", pointing

[5] *AK Gopalan v. State of Madras*, AIR 1950 SC 27
[6] Preventive Detention Act,1950, Acts of Parliament, India.
[7] *Maneka Gandhi v. Union of India*, AIR 1978 SC 597

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towards a considerable and noteworthy change. The ruling highlighted how Articles 14,19,21[8](Golden Triangle) are connected altogether and provide exhaustive framework for human dignity, personal liberty, and substantive due process. This made it possible to acknowledge rights like autonomy and privacy that go beyond the scope of physical freedom.

- ✓ ***Kharak Singh v State of U.P[9]***

  Right to privacy is recognized as a fundamental right under Article 21 and Article 19(1)(d) of the Constitution by the Court. While considering the validity of provisions of UP Police regulation for daily surveillance of suspects interpreted that they do not violate this particular article.

C. DIGITAL EXPANSION: SUPREME COURT HORIZONS

- ✓ ***Justice K.S Puttaswamy v. Union of India[10]***

  Wherein the issue of privacy was discussed in the light of the Unique Identity Scheme. In this landmark judgment, the Constitutional bench of Supreme Court has held right to privacy as a fundamental subject to certain reasonable restrictions.

- ✓ ***Amar Jain v. Union of India [11]***
- ✓ ***Pragya Prasan v. Union of India[12]***

  The recent cases have pushed the Supreme Court to confront the question of digital inclusion. The Court has emphasized that right to access digital platform isn't a privilege but obvious a constitutional guarantee. The persons with physical disabilities need to be involved in normal sphere of working the digital system must be complied with the Right of Persons with Disabilities Act, 2016.[13] The Court issued directions to revise the KYC norms.

[8] The Constitution of India art. 14,19,21.
[9] *Kharak Singh v. State of U.P*
[10] *Justice K.S Puttaswamy v. Union of India*
[11] Amar Jain v. Union of India
[12] *Pragya Prasan v. Union of India*
[13] Rights of Persons with Disabilities Act, 2016

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LEGISLATIVE FRAMEWORK: INDIA'S CYBER LAWS

1. The Information Technology Act,2000[14]

The Information Technology Act, 2000 is highly significant from the perspective of Article 21. However, it faces criticism for inadequacies in data protection, procedural fairness and enforcement mechanisms. The Act was to provide legality to fight cybercrime issues and dealing with privacy and data breaches. Over the years, amendments have been made to keep pace with rapidly evolving technology and the growing sophistication of cyber threats. With the passage of time it has become clear that cyberspace is not just a place for contracts and emails but also a space where people's dignity, privacy and security can be violated.

- **KEY PROVISIONS**:
  i. ***Section 43A[15]:*** Section 43A is a proactive provision and its sole objective is to protect the privacy and personal data. Though the act has has not defined the term "data subject" but this section has segmented the term "data subject". It creates an onus on the "body corporate" to accomplish and maintain "reasonable security practices and procedures" in order to protect the sensitive personal data of an individual[16].
  ii. ***Section 66[17]:*** Section 66 relates to computer related offence. It punishes hacking, unauthorized access and tampering with digital data. These offences may sound technical but their impact is deeply personal the stolen passwords, altered financial records or leaked health information can disturb someone's livelihood, dignity and sense of security.
  iii. ***Section 72[18]:*** It penalizes unauthorized disclosure of personal information. This provision is about protecting very private parts of people's lives like medical records uploaded to a government portal, financial information shared with bank etc. Section 72 works as a statutory expression of this principle in the digital sphere.

[14] Supra note 4 at 11
[15] The Information Technology Act, 2000, s. 43
[16] Vakul Sharma and Seema Sharma, Information Technology: Law and Practice (8th edn, Universal Law Publishing LexisNexis 2023) 145.
[17] The Information Technology Act,2000, s. 66
[18] The Information Technology Act,2000 (Act of 2000), s. 72

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- **IT ACT, 2000 & ANALYSIS OF CYBER OFFENCES**

Area of Protection	Provisions of IT Act, 2000	Why it matters for Article 21 (Right to life & Personal Liberty)
Identity theft &Impersonation	Section 66C[19] & Section 66D[20]	Safeguards autonomy and privacy by criminalizing misuse of someone's identity online
Unauthorized access/ Hacking	Section 66[21]	Protects the security of individual's digital property and personal data; breaches can destroy livelihood and violate personal liberty
Cyber stalking	Section 66E[22]	Recognizes harm to dignity caused by unauthorized images or surveillance.

1. **Personal Data Protection Bill, 2019 [23]& Data Protection Bill, 2022[24]**

   In 2019, the Government of India introduced the Personal Data Protection Bill as the country's first serious attempt to build a privacy law for the digital age. It was inspired by the models like the EU's GDPR [25]it thought to give individuals more control over how companies and public bodies collected, stored and used their personal data. The Bill proposed principles such as consent, and data protection authority to oversee compliance.

   After criticism and public consultation, the Bill was withdrawn and replaced in 2022 with a new Digital Personal Data Protection Bill. This simplified obligations, reduced the number of "sensitive" categories and expanded exemptions for government agencies. For Article 21, these bills are natural extension of judicial developments, Where the Constitution guaranteed the right to life and personal liberty, and the Courts have read privacy into it, the data protection framework attempts to give the right "teeth" in everyday online interactions, banking, healthcare, education, e governance. In a nutshell, the shift from the 2019 to 2022 Bill shows India's ongoing struggle to balance innovation, governance and individual rights in the digital sphere.

[19] The Information Technology Act,2000 (Act of 2000), s. 66C
[20] The Information Technology Act,2000 (Act of 2000), s. 66D
[21] The Information Technology Act,2000 (Act of 2000), s. 66
[22] The Information Technology Act,2000 (Act of 2000), s. 66E
[23] Personal Data Protection Bill.2019 (Bill No. 373 of 2019) India
[24] Data Protection Bill, 2022 (Draft for Public Consultation) India
[25] General Data Protection Regulation (EU) 2016/679, Official Journal of the European Union, L119/1 (2016)

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2. **Digital Personal Data Protection Act,2023**[26]

   India's first dedicated privacy law recognizes that personal data is no longer just a record but an extension of the person.

   - It requires organisations to collect only necessary data, use it for specific purposes, and delete it when no longer needed.
   - It gives individual right to access, correct and erase their data.
   - It creates a Data Protection Board to investigate breaches and impose penalties.

3. **National Cyber Security Policy, 2013**[27]

   India's National Cyber Security Policy of 2023 [28]is more than a set of rules. It's the Government's vision for making cyberspace safer for everyone, recognising how deeply digital systems are woven into daily life, The key aspects include:

   - Protecting critical information infrastructure, the systems that keeps power grids, telecom networks, financial systems and government services running smoothly from cyber threats.
   - Promoting cyber hygiene and public awareness.
   - Encouraging research, innovation and capacity building in cybersecurity.

JUDICIAL INTERPRETATIONS & LINKING FREEDOM OF SPEECH AND PERSONAL LIBERTY

Freedom of Speech and expression is a human right guaranteed under both under international and international law. E-revolution has brought many changes and introduced various new concepts. Free speech online is one of the segment where anyone can express his views online. In the era of computer information, technology, and the internet, the human rights in physical terms also includes human rights in cyber space.

However, recently a controversy has arisen all over the world including India regarding freedom of speech and expression which could be exercised both offline and online. While exercising the freedom online, same reasonable restrictions are imposed and intermediaries are

[26] Digital Personal Data Protection Act, 2023, No, 22 of 2023 (India)
[27] National Cyber Security Policy, 2013, Ministry of Communications Information Technology (India)
[28] Ministry of Electronics and Information Technology, National Cyber Security Policy, 2013, Government of India.

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given the duty of blocking, sensing and removing the information transmitted by the internet user. Consequently, such intermediaries who fail to perform their duties are held criminally liable.

Earlier for the first time in July, 2012 the Human Rights Council [29]adopted a resolution on Internet free speech to protect the free speech of individuals on internet which was first such resolution of its kind. Approved by 47 members of Human Rights Council, but is pertinent to highlight that Inia abstained from voting because it doesn't permit online free speech completely and has imposed various restrictions under Section 66 A of Information Technology Act, 2000.

Shreya Singhal v. Union of India[30]

The Landmark judgment marks a turning point in the interpretation of constitutional freedoms in the digital era.in the context of Article 19(1)(a) [31]Right to freedom of speech and expression**,** it also has a deep and subtle connection with Article 21**,** which guarantees the Right to life and Personal liberty.

The Supreme Court struck down the Section 66A as unconstitutional, holding that it violated Article 19 (1)(a**)** and could not be saved under the reasonable restrictions. The Court reiterated that any law restricting personal freedom must satisfy the test of fairness, reasonableness and non arbitrariness.

PERSPECTIVE ANALYSIS WITH REGARD TO ARTICLE 21

Right to Privacy is a basic component of Right to Life and Personal Liberty. Privilege is a basic right of a man, and includes Right to Life & Personal Liberty wherein Right to Privacy is invariably included. This refers to the specific right of an individual to control the collection, use and disclosure of personal internal habits and activities, family records, educational records etc.

[29] Human Rights Council, Resolution on the Promotion, Protection and Enjoyment of Human Rights on the Internet, UN Doc A/HRC/20/L.13,2012.
[30] *Shreya Singhal v. Union of India, (2015) 5 SCC 1*
[31] The Constitution of India, art. 19 (1) (a)

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In the present scenario, there has been a constant change in the various activities of economic and social paradigms which has posed a need for the data protection and cyber security laws.

HIGHLIGHTS OF COMPARATIVE INTERNATIONAL PERSPECTIVE

Right to Privacy is recognised as a fundamental right in the:

- **UN Declaration of Human Rights (UDHR)**[32]
- **International Covenant on Civil and Political Rights (ICCPR)** [33]
  Both affirm the inherent dignity of every individual and protect the rights such as life, liberty, privacy and freedom of speech and expression online.
- **Budapest Convention on Cybercrime (2001)**[34]
  It's the first global treaty on cyber offences. It sets out common definitions for crimes like hacking. Fraud and encourages countries to cooperate in investigations
- **European Union.**
  The General Data Protection Regulation (GDPR) [35]provides sturdy safeguards for protection of data and recognises "Right to be forgotten."

HIGHLIGHTS OF NATIONAL PERSPECTIVE

Information Technology Act. 2000 (amended 2008)

Parliament amended the original IT Act in 2008 to give a befitting reply to the rapidly changing digital environment. The amendment turned into a good cyber control framework.

- Creating new offences such as identity theft (Sec 66C), Cheating by personation (sec 66D). Publication of sexually explicit material and child pornography and Retention of stolen computer resources (Sec 66B)
- Introducing data protection duties
- Recognising electronic signatures
- Redefining intermediary liability
- Giving statutory backing to CERT-In
- Raising penalties and improving adjudication
- Expanding interception and blocking powers

[32] *United Nations, Universal Declaration of Human Rights, UN Doc A/RES/217(III), 1948*
[33] *United Nations, International Covenant on Civil and Political Rights, UN Doc A/6316,1966*
[34] Council of Europe, Convention on Cybercrime (Budapest Convention), 2001
[35] European Union, Regulation (EU) 2016/679 of the European Parliament and of the Council on the Protection of Natural Persons with regard to the Processing of Personal Data (GDPR), 2018

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PARALLEL PROVISIONS UNDER INDIAN PENAL CODE, 1860[36]/ BHARTIYA NYAYA SANHITA, 2023 [37]& THE INFORMATION TECHNOLOGY ACT, 2000.[38]

The IT Act paves the way to deal with technical side including data breaches, unauthorised access, hacking etc. but Bhartiya Nyaya Sanhita, 2023 provides the core criminal definitions, contraventions and penalties. For example, Identity theft or online impersonation can be booked under Section 66C[39] or Section 66D [40]of the IT Act but also under Cheating and impersonation under Section 419 of IPC [41]and Section 318 of BNS. [42]

The IT Act offers wider explanation of classifications of cyber crimes targeting a large area of people in every sphere. While, BNS provides for the deeper criminal relates aspects.

RECENT REPORTS ON CYBER CRIME & ARTICLE 21

- The Ministry of Home Affairs [43]informed in 2024, informed the Parliament that India witnessed a peak rise in cybercrime, with over 36.37 lakh cases of financial fraud reported through National Cyber Crime Reporting Portal (NCRP**[44]).** In the response, the Government has strengthened its efforts to combat these offences by setting up the Indian Cyber Crime Coordination Centre[45], which improves coordination among law enforcement agencies.**'**Pratibimb' module are now being utilised to map cybercriminal networks, resulting in thousands of arrests and the prevention of substantial financial losses.[46]
- **The Law Commission of India**[47] has repeatedly underlined the urgency of updating the country's cybercrime laws to keep pace with ongoing technological change. It's reports have stressed the importance of stronger investigation and prosecution

[36] Indian Penal Code, 1860
[37] Bhartiya Nyaya Sanhita, 2023
[38] The Information Technology Act, 2000 ,(Act of 2000)
[39] The Information Technology Act, 2000, (Act of 2000) s 66C
[40] The Information Technology Act, 2000, (Act of 2000) s 66D
[41] Indian Penal Code, 1860, s 419
[42] Bhartiya Nyaya Sanhita,2023, s 318
[43] Government of India , " Report of the Parliamentary Information on Cybercrime," (Ministry of Home Affairs,2003)
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mechanisms so that the offenders are held accountable without undermining citizen's constitutional guarantees, especially the Right to life and Personal liberty under Article 21. Through its work on issues such as cybercrime prevention, data protection etc. The Commission has helped devise a legal environment that is more responsive to digital realities.

KEY INSIGHTS AND CONTRIBUTIONS OF RESEARCH

- **Identifying the gaps and challenges**

  Through this research, it becomes clear that existing laws at times lag and don't turn out to be that effective and successful. It provides a guidance for the lawmakers, regulators on bringing the powers to an equilibrium state.

- **Expanding the scope of Article 21**

  The study shows how Courts have extended the scope of "life" and "liberty" under Article 21 to cover online privacy, dignity, data protection etc.

- **Interaction of laws**

  It analyses how the Digital Data Protection Act, 2023 works hand in hand with the Information Technology Act, 2000 and Bhartiya Nyaya Sanhita, 2023, highlighting overlaps, gaps.

- **Comparative analysis of India &other nations**

  In comparison to India's policies with those of other countries, the research highlights where India is ahead and where it is facing shortcomings.

- **Digital inclusion**

  It explores the novel idea of digital inclusion not just by giving access to the internet but ensuring safe, sound, private and equitable participation.

RECOMMENDATIONS FOR REFORM

- **Strengthen the digital evidence mechanisms**

  There ia a need to amend the procedural laws in order to catch up with the collection, preservation and admissibility of evidence.

- **Special Cyber Crime Courts**

  Cyber crime courts should be setup wherein cases portraying cyber offences be tried and easy access to justice is there

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- **Awareness among the public**.

  Public awareness drives in order to prevent or cyber crime must be organised so that people don't behave in an illiterate manner while using computers and atleast they have that much sufficient knowledge.

- **Need for refined laws**

  There should be more focus on the statutory provisions, need of the hour for better laws to come so that whatever vulnerabilities they can be curbed in the upcoming times.

CONCLUSION

This research establishes that the meaning of life and personal liberty under Article 21 has augmented far beyond its original scope to include privacy, data protection and freedom from arbitrary digital surveillance. The Information Technology Act, 2000, the Digital Personal Data Protection Act, 2023, and relevant provisions of the Bharatiya Nyaya Sanhita, 2023, the paper shows how India's cyber law framework is evolving to curb the meeting of contemporary challenges posing threats to it.

Meanwhile, it highlights overlapping gaps towards the threat to cyber security, and dreaming of becoming an emerging nation like the already developed nations with sufficient laws to tackle the widespread. In my opinion there is a constant need of implementing new techniques to handle today's computer AI driven world and be so sufficient enough to counter back the immense failures and incompetence which pose a threat to the people financially and mentally. India has already achieved a lot if it continues to do so in this field also then there will be no stone left unturned to combat this fear and trauma of getting trapped under cyber crimes and threats.

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