

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

EDITORIALTEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.



Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi. (2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

THE RIGHT TO PRIVACY IN THE DIGITAL AGE: CHALLENGES AND LEGAL FRAMEWORK IN INDIA

AUTHORED BY - ADITYA THAKUR,
IILM University

ABSTRACT

The right to privacy is increasingly under threat in today's digital age, where vast amounts of personal data are constantly being collected, stored, and processed. In India, the right to privacy has been recognized as a fundamental right by the Supreme Court in 2017, yet significant challenges remain in safeguarding it, especially with the rise of surveillance, mass data collection, and digital platforms. This paper explores the legal framework surrounding the right to privacy in India, the challenges posed by digital technologies, key case studies, and potential solutions to address these challenges while ensuring the protection of individual privacy rights in the digital era.

Keywords:

Right to Privacy, Digital Age, India, K.S. Puttaswamy, Privacy Law, Data Protection, Cybersecurity, Personal Data Protection Bill, Aadhaar.

Introduction

In the modern digital landscape, privacy has become one of the most pressing concerns. With the increasing penetration of technology into every aspect of life—from social media and mobile apps to online transactions and government services—personal information is being collected, shared, and analysed like never before. This unprecedented access to data raises critical questions: How much of our personal information should be accessible to governments and corporations? Are individuals fully aware of how their data is being used and protected? These concerns highlight the growing need to safeguard the right to privacy, particularly in India, where digital governance is rapidly expanding.

India's landmark judgment in *K.S. Puttaswamy v. Union of India* (2017) recognized privacy as a fundamental right under the Indian Constitution. Despite this recognition, numerous gaps in existing laws persist, struggling to keep pace with rapid technological advances and emerging

digital challenges. This paper examines the various challenges faced by Indian citizens regarding privacy, including surveillance, data collection, cybersecurity threats, and the influence of digital platforms. It also explores case law shaping privacy protection in India and suggests legislative and technological solutions for a safer digital environment.

The Right to Privacy in Indian Law: An Overview

a. Constitutional Foundation

In *K.S. Puttaswamy v. Union of India* (2017)¹, the Supreme Court recognized the right to privacy as a fundamental right under Article 21 (Right to Life and Personal Liberty) of the Indian Constitution. The Court emphasized that privacy is integral to human dignity and personal autonomy and ruled that any infringement on privacy must meet the standards of legality, necessity, and proportionality.

b. Existing Legal Frameworks

The Information Technology Act, 2000 (IT Act), primarily addresses cybercrimes and online transactions but does not sufficiently tackle modern privacy concerns. The Personal Data Protection Bill, 2019 (PDPB), aims to regulate data privacy in India by introducing transparency and user control over personal data. However, the bill is still awaiting parliamentary approval, leaving significant legal gaps in data protection

Challenges to Privacy in the Digital Age

a. Surveillance and Mass Data Collection

The Aadhaar project, which collects biometric data such as fingerprints and iris scans for identity verification, has raised concerns regarding unauthorized access and potential misuse of personal data. While Aadhaar² has been deemed valid for welfare benefits, the Supreme Court has emphasized the need for stringent safeguards.

b. Corporate Data Exploitation

Companies collect vast amounts of personal data through digital platforms, apps, and e-commerce sites, often without informed consent. This data is frequently shared with third parties for targeted advertising, raising concerns about consumer privacy.

c. Cybersecurity Risks and Data Breaches

As more personal data is stored online, the risk of data breaches increases. Several high-

¹ Supreme Court of India, *K.S. Puttaswamy v. Union of India*, 2017

² Information Technology Act, 2000

profile breaches, including vulnerabilities in the Aarogya Setu app, have exposed sensitive information, highlighting the need for stronger data protection laws.

d. Inadequate Legal Protection

Despite privacy being a fundamental right, existing laws lack clarity and enforcement mechanisms. The IT Act does not sufficiently address consent management, data localization, or privacy risks associated with social media platforms, leaving citizens vulnerable to digital threat

Case Studies of Privacy in India

a. *K.S. Puttaswamy v. Union of India (2017)*

This landmark judgment recognized privacy as a fundamental right, particularly in the context of Aadhaar. While Aadhaar was upheld for welfare purposes, the Court stressed the need for safeguards to prevent misuse.

b. *Shreya Singhal v. Union of India (2015)*³

While primarily concerning freedom of speech, this case also highlighted privacy concerns. The Supreme Court struck down Section 66A of the IT Act, which criminalized offensive online messages, for being overly broad and violating privacy rights.

c. *R. Rajagopal v. State of Tamil Nadu (1994)*⁴

This case reinforced the right to privacy in preventing unauthorized publication of personal information, setting an early precedent for privacy protection in India.

d. *Aarogya Setu App Data Leak (2020)*⁵

Concerns about data security arose when vulnerabilities in the Aarogya Setu app, designed for COVID-19 tracking, were exposed. This highlighted the need for stronger privacy protections in government digital initiatives.

Recommendations for Strengthening Privacy Protections

- a) Enacting the Personal Data Protection Bill, 2019⁶ The PDPB is essential for regulating personal data collection, ensuring informed consent, and imposing penalties for non-compliance. Its enactment is crucial for strengthening privacy protections.

³ Supreme Court of India, *Shreya Singhal v. Union of India*, 2015

⁴ Supreme Court of India, *R. Rajagopal v. State of Tamil Nadu*, 1994

⁵ *Aarogya Setu App Data Leak*, 2020 Report

⁶ Personal Data Protection Bill, 2019

International Privacy Law Comparisons, EU GDPR vs. Indian PDPB

- b) Strengthening the Information Technology Act Updating the IT Act to address data localization, consent management, and stricter regulations for digital platforms will provide a more effective legal framework for privacy protection.
- c) Enhancing Cybersecurity⁷ Practices Implementing mandatory encryption, conducting regular security audits, and imposing penalties for data breaches will help improve cybersecurity measures across sectors.
- d) Promoting Public Awareness on Privacy Rights Educational campaigns should inform individuals about privacy risks, how to manage personal data, and how to use privacy settings effectively.
- e) International Cooperation on Data Privacy Standards Since data flows across borders, India should engage in international collaboration to establish global data protection standards, ensuring robust privacy laws regardless of data location

Conclusion

The right to privacy in India, recognized as a fundamental right by the Supreme Court in *K.S. Puttaswamy*, marks a crucial step in safeguarding individual liberties. However, with rapid technological advancements and increasing reliance on digital platforms, privacy protection has become more complex. While legal frameworks like the IT Act and the pending PDPB are essential, further reforms are necessary. Strengthening data protection laws, improving cybersecurity measures, updating outdated regulations, and increasing public awareness will be key to ensuring privacy rights in the digital age. India has an opportunity to set a global benchmark by adopting stronger legal frameworks and leveraging technology to protect its citizens' privacy. Safeguarding privacy should not only be about data protection but about upholding the dignity and autonomy of individuals in an interconnected world.

Ministry of Electronics and Information Technology, Government of India
⁷ Cybersecurity and Data Breach Reports, CERT-IN