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“RIGHT TO PRIVACY: CONSTITUTIONAL FOUNDATIONS, JUDICIAL INTERPRETATION, AND CONTEMPORARY CHALLENGES IN THE DIGITAL ERA”.

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INTRODUCTION

The right to privacy can be defined as the fundamental human right that protects an individual's autonomy and control over their personal information and prevents any kind of unwanted intrusion into their private life. According to the OXFORD Dictionary of Law the word 'Privacy' means "right to be left alone". So as per the definition, we can say that the right to privacy is the right to keep our personal information private. Personal information can include electronic communication, professional activities and even feeling and intellect. In India, the right to privacy is recognised as a fundamental right under Article 21 of the Constitution of India, which also guarantees the right to life and personal liberty. This was affirmed by the Supreme Court in the case **Justice K S Puttaswamy (Retd) v Union of India** that "the 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.[1]"

EVOLUTION OF RIGHT TO PRIVACY

The right to privacy is not expressly mentioned as a fundamental right under part III of Indian Constitution. It became a fundamental right through the interpretation of the judiciary through various cases .In India, various cases were registered where people have raised various concerns regarding privacy.

M P Sharma vs Satish Chandra concerns the search and seizure of documents of certain companies for the purpose of investigating their affairs. An FIR was filed, followed by the issuance of a warrant and subsequent searches. The constitutionality of the searches was contested before the Supreme Court on the grounds that the searches infringed their fundamental right to property under Article 19(1)f and the right to protection from self-incrimination under Article 20(3). The Supreme Court 8-Judge bench came to a conclusion that the constitution framers did not mean to restrict the power of search and seizure by a

fundamental right of privacy. Therefore, the Supreme Court decision was that privacy was not a fundamental right, and search and seizure practices were constitutional.[2]

Kharak Singh vs State of Uttar Pradesh examines the monitoring of the accused by the police authorities. Kharak Singh was charged with dacoity but was released due to insufficient evidence. The police surveillance of Kharak Singh was initiated because of the provisions in chapter 10 of the police regulation surveillance. Kharak Singh challenged the constitutional validity of chapter 10 arguing that it infringes on his fundamental right under Article 19(1)(d) which is the right to movement, and also infringes Article 21 which pertains to life and personal liberty. The six judge bench ruled that the midnight police surveillance was unconstitutional but allowed the rest of the regulations. The bench also ruled that privacy is important but is a constitutionally guaranteed right.

Govind vs State of Madhya Pradesh and Another is, similar to Kharak Singh vs State of Uttar Pradesh. Govinda challenged the validity of Madhya Pradesh police regulation related to surveillance which includes domiciliary visits. He argued that false accusations were the grounds under which he was placed under police surveillance. While the Supreme Court dismissed the petition, it nevertheless advised to make changes to the Madhya Pradesh police regulation. And here also the Supreme Court denies the right to privacy as a fundamental right..

Justice K S Puttaswamy vs Union Of Indian In this matter, a 9- Judge Bench of the Supreme Court overruled the judgement of M P Sharma vs Satish Chandra (1954) & Kharak Singh vs State of Uttar Pradesh (1962). The Aadhaar program, which mandated biometrics for all citizens, is what triggered this dispute. The Supreme Court acknowledged the fact that privacy is an inherent component of the right to life, as well as personal liberty which is protected under Article 21 and other fundamental rights.

SIGNIFICANCE OF RIGHT TO PRIVACY

The right to privacy is crucial for safeguarding individual autonomy, dignity, and freedom of expression. It ensures protection from surveillance, enables free expression, and secures personal data, strengthening democratic values.

- 1. Right to Life and Dignity:** Right to privacy is connected with the constitutional right to life and dignity. It offers a shield against actions that could harm personal respect and ensures that all individuals are treated with honour and respect.
- 2. Freedom of Expression:** Right to privacy provides free expression by ensuring

individuals can express, and share their ideas without fear of retribution which strengthen democratic values and personal freedom of expression.

- 3. Protection from Surveillance:** Right to privacy protects against intrusive surveillance, prevents both governmental and private entities from unreasonably tracking an individual's activities.
- 4. Data Protection:** Today is the era of the digital age and the right to privacy safeguards personal data and prevents unauthorized access to sensitive information which is crucial for protecting personal data and financial information and maintaining trust in digital services.

CHALLENGES OF RIGHT TO PRIVACY

The right to privacy in India is continuously in conflict as -balancing individual privacy with other rights, security, and virtual inclusivity. Challenges like prioritisation over other rights, digital awareness, and communications surveillance, often create gaps in regulatory and judicial clarity.

1. BALANCING WITH OTHER RIGHTS:

Balancing Freedom of Information

Access to information, especially online, can sometimes conflict with individual privacy, requiring a careful balance between transparency and confidentiality.

Balancing Right to Life

In situations like the COVID-19 pandemic, the right to life may be prioritized over the right to privacy, necessary measures like contact tracing.

2. DIGITAL AWARENESS:

Lack of Digital Literacy

Many individuals, especially in rural areas, don't have the knowledge and resources to protect their privacy online, which makes them vulnerable to data misuse and breaches.

Limited Access to Technology

Unequal access to technology and internet connectivity can exacerbate the digital divide, and also hinders the ability of certain populations to exercise their privacy rights.

1. Surveillance and Data Collection

Governments and private entities both are increasing the use of surveillance

technologies like facial recognition data analytics, and social media information, which can raise serious privacy concerns. The collection and use of biometric data such as fingerprints and iris scans also pose potential privacy risk.

2. **Data Breaches and Security Risks:**

The increasing reliance on digital platforms and cloud computing has created opportunities for data breaches and unauthorized access to personal information.

3. **Legal Frameworks and Enforcement**

The rapid evolution of technology outpaces the development of legal frameworks and regulations to protect privacy. To ensure that privacy laws are effectively enforced and individuals have access to redress when their privacy rights are violated, the lack of comprehensive data protection legislation in some jurisdictions can leave individuals vulnerable to privacy violations.

Government Steps to Protect Privacy

1. **BN Srikrishna Committee⁵:**

Government appointed a committee of experts on data protection under the chairmanship of Justice B N Srikrishna that submitted its report in July 2018.

2. **Information Technology Act, 2000⁶:**

The IT Act 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.

3. **Personal Data Protection Bill 2019⁷:**

The Personal Data Protection Bill, 2019 was introduced by Minister of Electronics and Information Technology in Lok Sabha in December 2019. Which is commonly known as the "Privacy Bill", it aims to protect individual rights by regulating the collection, movement, and processing of personal data. The government withdrew the bill due to various concerns raised by technology giants and issues raised by the common people.

4. The government has also overseen surveillance under the **Indian Telegraph Act (1885)⁸**, which permits lawful interception with strict procedural safeguards to balance privacy with national security. **National Cyber Security Policy** and **Indian Computer Emergency Response** promote privacy through guidelines on data protection, cyber security, and responses to data breaches.

CONCLUSION AND SUGGESTIONS

The right to privacy is crucial for protecting individuals autonomy and allows people to make personal choices without personal interference .It prevents individuals from unwanted intrusion into their lives and taking personal information .It is a cornerstone of democratic society, and promotes individual freedom. It 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 but subject to some reasonable restrictions to prevent crime, public disorder and protection of other rights In today's era, the right to privacy is becoming more and more essential.

The following may be suggested.

TO CONSTITUTE A DATA PROTECTION AUTHORITY

A data protection authority must be constituted to protect the data of individuals .The authority must function for monitoring the development of data processing.

TO PUNISH THE OFFENDERS

Punishment should be given to the person who tries to obtain any information from any resource or any officer of government.

PUBLIC AWARENESS AND EDUCATION

The govt. Should launch a public awareness campaign to educate citizens about their privacy rights and their responsibility regarding their private information.

TECHNOLOGICAL INNOVATION

Technological innovation like encryption, anonymization, and differential privacy can protect the data of individuals from leakage and protect from digital fraud

PREFERENCE

1. Justice K S Puttaswamy (Retd) v Union of India (2017) 10 SCC 1
2. M.P. Sharma vs. Satish Chandra, District Magistrate, Delhi ((1954) SCR 1077)
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