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SOCIAL, LEGAL AND PHILOSOPHICAL **ASPECT OF RIGHT TO PRIVACY.**

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ABSTRACT:

The ability to conceal certain aspects of one's life from the general public is known as the right to privacy. In the larger framework of international law, the right to privacy is regarded as a fundamental human right for each individual. It is now practically hard for an individual to maintain their anonymity or preserve their privacy in the era of state and commercial internet communications providers' surveillance.

This article explores the concept of the right to privacy as fundamental human right, its historical development throughout the time, legal foundations based on international and national instruments, and contemporary challenges. Human rights were recognized as a fundamental right under the legislation. The right to privacy has evolved according to technological advancements, societal changes, and legal interpretations. Though there is no proper definition can be found relating to the privacy rights of an individual. But with various interpretation of different judgements, jurists and philosopher. Through this article, aims to provide a comprehensive study of the right to privacy by examining key historical development, landmark cases, in India and the national legislations.

Key words: Privacy, human rights, fundamental rights, national and international instrument.

1. RIGHT TO PRIVACY: BRIEF INTRODUCTION

The word privacy has been derived from the Latin word "*Privatus*" which means separated from the rest. This has been part of human society since beginning of time. Its rooted back from the philosophical discussions of ancient Greek¹. Thus, it is to be considered that this is not a new

¹ <https://doi.org/10.1093/oso/9780198870173.003.0003>

concept rather the recognition of privacy under fundamental rights are certainly modern. There were two spheres, in the Ancient Greek Society, i.e. *Polis* and *Oikos*, *Polis* is referred to as public sphere of political affairs such as city and *Oikos* is referred to household affairs which is private among the families. This distinction was made by Aristotle in the Book One of Politics². This, is significant to understand the modern concept of privacy. As the concept has been ever evolving since ancient times which has also made the hierarchy disappeared in families these days, an observation by Aristotle in Book One³. Furthermore, the right to privacy has gained protection under both constitutional and statutory law by the 19th century in USA.

Privacy is a state where one's personal information about their life and other conditions are kept beyond the reach and knowledge of others, so that it can't go public. By this people can control over the information that they want to share it with others or put forth in the public domain. Privacy has been well known throughout the history, since the very beginning of the mankind. Considering anything as private differs from person to person as well as the society. Privacy is to be considered interest of the human personality. This safeguards person's independence, personality, integrity and dignity. The reason behind safeguarding one's privacy varies distinctively. As some individual like to keep up with anonymity, others don't want anyone others to know some embarrassing facts about themselves so that is how it differs from person to person. So, this can be concluded that privacy carries three basic elements i.e. solitude, anonymity and secrecy. The most significant step behind creation of modern notion of privacy, which has appeared for the first time by the study made by Louis Brandeis and Samuel Warren in 1890, for The Right to Privacy. Since then, the right to privacy has become acknowledged and widely known, then it has emerged to gain and become fundamental human right internationally⁴.

1.1 THE MEANING AND DEFINITION OF RIGHT TO PRIVACY:

Amongst all the human rights, privacy stands to be the most difficult one to be defined for both national and international catalogue. There have been various attempts made by number of jurists, theorists and scholars to define privacy, but yet it has been very confusing to comprehend with the true meaning of privacy and the scope of privacy. Although, oxford English dictionary has defined "privacy" as "the state or condition of being free from being observed or disturbed by other people" or "the state of being free from public attention." This definition is inspired from

² Lessons from the Greeks: Privacy in Aristotelian Thought, BARENAKED FOODS,

³ Lessons from the Greeks: Privacy in Aristotelian Thought, BARENAKED FOODS

⁴ AdriennLukács, WHAT IS PRIVACY? THE HISTORY AND DEFINITION OF PRIVACY.

the definition given by Aristotle⁵. However, this term is full of distinctive connotations as there is new means and contexts for privacy violations developed.

Though there have been various attempts to define the privacy but still there is no universal definition yet till the date to describe it. However, privacy is universally claimed by everyone, still its actual form differs based on the environment, economy, culture and the societal characteristics⁶. This states that privacy need to be reinterpreted under the light of present era and should be examined in the present context.

Speaking of Privacy extensively, this is individuals' rights of being left alone or not being intervened or intrude into their freedom. On the other hand, information privacy is something where individual have their own rights to control their individual information from being used and collected⁷. Thus, it is very significant to understand that privacy is not only about confidentiality. Further, Richard B. Parker defined privacy as "the control over whom and when various parts of us can be sensed by others." Richard by stating 'various parts' meant to say about our parts of the body, products of it and our voice. This also includes those objects which are remotely associated and accessible to the individuals. By stating 'Sensed by others' means that it has been smelled, seen, tasted, touched or been heard by others⁸. According to the definition given by Black's Law Dictionary, Privacy is⁹ "*the right that determines non-intervention in secret surveillance and protecting an individual's information. It is of four categories.*

- First, physical: an imposition whereby another individual is restricted from experiencing an individual or situation.
- Second, decisional: the imposition of an exclusive restriction on an entity.
- Third, informational: the prevention of searching unknown information.
- Fourth, dispositional: the prevention of attempts made to know the minds of individuals."

Alan Westin, the American law professor has established three distinctive levels of privacy norms based on their affects which are as follows:

- i. The political level
- ii. The socio-cultural level

⁵ History of Privacy: Past, Present & Predictions for the Future, <https://www.piiiano.com/blog/history-of-privacy-and-future-predictions>

⁶ History of Privacy: Past, Present & Predictions for the Future, <https://www.piiiano.com/blog/history-of-privacy-and-future-predictions>

⁷ What is Privacy, <https://iapp.org/about/what-is-privacy/> (last visited Mar 31, 2024).

⁸ Richard B. Parker, A Definition of Privacy, in PRIVACY (2001).

⁹ PRIVACY Definition-Black's Law Dictionary, THE LAW DICTIONARY (2013), <https://thelawdictionary.org/privacy>

iii. The personal level

Further, Westin has defined privacy as “the claim of an individual to determine what information about himself or herself should be known to others.”

Julie Inness has stated that the discussions surrounding privacy can be divided into three categories:

- “a) the sceptical debate about the conceptual and moral distinctness of privacy;
- b) the debate about the two components of a definition of privacy- the function of privacy and the content of privacy- the function of privacy and the content of privacy;
- c) the debate about the value of privacy.¹⁰”

So, it can be articulated from above that privacy is essential as it enable individuals to create boundaries and manage the same to safeguard their lives from any unwarranted intrusions. The rules and laws that safeguard the privacy enable the individuals to assert their rights in defiance of important power prejudice. The rights of privacy are such fundamental rights which plays a significant role in autonomy and in safeguarding the human dignity.

1.2 THE NATURE OF RIGHT TO PRIVACY

This is a kind of right which safeguards the inner sphere of any personnel from any hinderances from outside actors which can be state or even the non-state actors. This is enjoyed by every individual by virtue of their existence in this. It is a fundamental human right which has wide recognition in every major international instruments namely which are based on human rights like- International Covenant on Civil and Political Rights, the European Convention on Human Rights etc. Almost every country has recognised privacy rights as fundamental rights under their constitutional law implicitly or explicitly. Such as the constitution of South Africa and Hungary have specific rights to control and access individual’s information¹¹, this has been included most recently within their written constitution. On the other hand, there are some countries which don’t have any explicit mention of right to privacy in their constitution, these countries include United States of America, India and Ireland, the courts have pronounced various judgements through which the right to privacy has been recognized and further it has been implicitly recognised by the constitutional laws. However, there are few countries which has adopted the international instruments which recognises the privacy rights there under for instance the European Convention

¹⁰ JULIE INNESS, PRIVACY, INTIMACY, AND ISOLATION (1996).

¹¹ David Banisar & S. Davies, Privacy & Human Rights-an International Survey of Privacy Laws and Developments, THE JOHN MARSHALL JOURNAL OF COMPUTER & INFORMATION LAW (1999).

on Human Rights¹². Further, privacy rights have been internationally recognised as fundamental human right by UN Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR) and in various other international and regional instruments.

Basically, Privacy is referred to underpin the human dignity and various fundamental values for instance the freedom of speech and association. Privacy has become one of the significant human rights in the modern era.

2. HISTORICAL DEVELOPMENT OF RIGHT TO PRIVACY:

Mostly, the right to privacy has gain worldwide interest in the 1960-1970s with emergence if information technology, the right to privacy has cultural, religious and historical connotations which fortify the perspective that privacy of an individual is highly valued and preserved in varied cultures internationally. Thus, in 1970s the countries started to adopt the laws with intention of protecting the individual's privacy. Internationally there was a general movement for adoption of exhaustive privacy laws that sought to safeguard one's privacy rights. These laws were solely introduced based on the models of Organization for Economic Cooperation and Development and the Council of Europe¹³.

In the year of 1948 the international community has pinpointed the right to privacy as fundamental human right that has gained recognition by Universal Declaration of Human Rights (hereinafter UDHR). Later in 1966 the ICCPR has recognised the same. Article 17 of ICCPR and Article 12 of UDHR gives away legal safeguard to individuals against the 'arbitrary interference' with individual's family, privacy, home, honour, reputation and correspondence. Apart from these there are various special conventions for safeguarding the rights of special groups which as well recognize and safeguard the privacy rights of those communities. The Convention on the Rights of the Child, 1989¹⁴ under article 16 protects the children from any arbitrary or unlawful invasion of their privacy, family, correspondence and home, and even protect their reputation and honour from unlawful attacks. Further, under Article 14 of the International Convention on the Rights of All Migrant Workers and Members of Their Families, 1990¹⁵ migrant workers and their families are safeguarded against unlawful interference in their privacy and so on.

Further, in a similar vein, the regional blocs have accepted the right to privacy and provided protection for their inhabitants. European Union, under Article 8 of the European Convention on

¹² <https://gilc.org/privacy/survey/intro.html>

¹³ Ibid Note 12

¹⁴ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

¹⁵ International Convention on the Protection of the Rights of All Migrant Workers and Members of their families, 1990.

Human Rights and Fundamental Freedom talks about the right to respect for individual's private and family life. However, this right have some limitations if doing, there would compromise national security, public health or morals, national welfare, or the rights and freedoms of others. Individual's privacy, family matters are protected from arbitrary intrusion and attacks under Article 21 of the 2004 Arab Charter on Human Rights. Convicted individuals' security and privacy were protected in Article 16(8). The protection of the law from arbitrary or abusive intrusion in one's home or communication, family life, or honour or reputation is guaranteed by Article 11 of the American Convention on Human Rights.

Human rights and fundamental freedoms, including the right to privacy, are to be respected, according to Article 1 of the Convention for the Protection of Individuals with Respect to Automatic Processing of Personal Data. The Protection of informational privacy amidst the free flow of information in the region of Asia- Pacific is given under the Asia-Pacific Economic Cooperation Privacy Framework¹⁶. India in recent year enacted a new law known as Digital Personal Data Protection Act,2023 to but a limitation on intermediaries, to provide safeguard to the personal data of an individuals, and to regulate the laws related to the privacy and data protection especially on the digital mode.

3. PRIVACY AND ITS KIND

According to Dr. D.Y Chandrachud, J. "Privacy is a concomitant of the individual to exercise control over his or her personality. It finds an origin in the notion that there are certain rights which are natural to or inherent in a human being. Natural rights are inalienable because they are inseparable from the human personality. The human element in life impossible to conceive without the existence of natural rights."¹⁷

S.A Bobde, J. says that "privacy is the necessary condition precedent to the enjoyment of any of the guarantees in part III. As a result, when it is claimed by rights bearers before constitutional courts, a right to privacy may be situated not only in Article 21, but also simultaneously in any of the other guarantees in part III. In the current state of things, Article 19(1), 20(3), 25, 28 and 28 and 29 are all rights helped up and made meaningful by the exercise of privacy. This is not an exhaustive list. Further development in technology and social ordering may well reveal that there are yet more constitutional sites in which a privacy right inheres that are not at present evident to

¹⁶ Oishika Banerji, Right to Privacy, IPLEADERS (Feb. 5, 2024), <https://blog.ipleaders.in/different-aspects-of-right-to-privacy-under-article-21>

¹⁷ Justice K.S. puttaswamy (RETD.) v. Union of India (para no. 42)

us.”¹⁸

Privacy is the constitutional core of human dignity. Privacy has both a normative and descriptive function, At a normative level privacy subserves those eternal values upon which the guarantees of life, liberty and freedom are founded. At a descriptive level, privacy postulates a bundle of entitlements and interest which lie at the foundation of ordered liability.¹⁹

If we deeply study the concept of privacy, we found that privacy is not merely a right to protect one’s individual information from disclosing in public or putting a restriction on government agencies to have access to one’s personal data or information. There are following kinds of Privacy which deals with different facet of one’s daily life:

1. Privacy of the Individual (like body autonomy)
2. Privacy of Behaviour and Action (right to express about about specific issue like politics, religion, etc.)
3. Privacy of Communication (end to end encryption, VPN)
4. Privacy of Personal data (It specifically deals with the information which an individual share at digital platform. GDPR in Europe, DPDP Act, 2023 in India dealing with the topic in detail)
5. Privacy of Thought and Expression (It deals with the choice of selection of association to express their ideas, feelings, etc.)
6. Privacy of Location and Space
7. Privacy of Association (This deals mainly with the right to have freedom to interact with people without any judgment by the other person against you.)

4. ESSENTIALS OF PRIVACY

The concept of privacy is somewhere related with the dignity of human being. It is also verry clearly stated by the judicial body in several cases including in the case of Justice K.S Puttaswamy v. Union of India (2017) in detail. In the case the Court has explain three element which is essential part of dignity and so for privacy which is mention below²⁰:

- i) **INTRINSIC VALUE:** The uniqueness of human kind is the product of a combination of inherent traits and features- including intelligence, sensibility and the ability to communicate which gives human a special status in the world, distinct from other

¹⁸ Justice K.S. puttaswamy (RTED.) v. Union of India

¹⁹ Ibid

²⁰ Justice K.S Puttaswamy (RTED.) v. Union of India (para no. 116, pg. no. 197-203)

species²¹. The intrinsic value of all individuals results in two basic postulates: anti-utilitarian and anti-authoritarian. The former consists of the formation of Kant's categorical imperative that every individual is an end in him or herself, not a means for collective goals or the purposes of others. The latter is synthesized in the data that the state exist for the individual, not the other way around. As for legal implications, intrinsic value is the origin of a set of fundamental rights. The first of these rights is the right of life, a basic precondition for the enjoyment of any other right. A second right directly related to the intrinsic value of each and every individual is equality before and under the law.

- ii) **AUTONOMY:** Autonomy is the ethical element of human dignity. It is the foundation of the free will of individuals. Which entitles them to pursue the ideals of living well and having a good life in their own ways. The central notion is that of self-determination. Kantian conception of autonomy is the will governed by the moral law (moral autonomy). Autonomy requires the fulfilment of certain conditions, such as reason (the mental capacity to make informed decision), Independence (the absence of coercion, manipulation and severe want), and choice (the actual existence of alternatives). Thus, Autonomy is the ability to make personal decisions and choices in life based on one's conception of the good, without undue external influences. As for its legal implications, autonomy underlines a set of fundamental rights associated with democratic constitutionalism, including basic freedoms (Private autonomy) and the right of political participation (Public autonomy). It is also pertinent to mention that with the rise of the welfare state, many countries in the world also consider a fundamental right to minimum living condition (the existential minimum). Thus, we can say that there is three facet of Autonomy, namely: Private autonomy; Public autonomy; and the existential minimum.
- iii) **COMMUNITY VALUE:** This relates to the social dimension of dignity. The contours of human dignity are shaped by the relationship of the individual with others, as well as with the world around him. The individual thus, lives within himself, within a community and within a state. According to Robert post, he identified three distinct

²¹ See George Kateb, human dignity 5(2011)

forms of social order, they are: community (a shared world of common faith and fate), management (the instrument organization of social life through law to achieve specific objectives), and democracy (an arrangement that embodies the purpose of individual and collective self-determination). Dignity as a community value, therefore, emphasises the role of the state and community in establishing collective goals and restrictions on individual freedoms and right on behalf of a certain idea of the good life.

5. IS PRIVACY A RIGHT?

The right to privacy was recognised as a first-generation fundamental human right by a number of international legal instruments in the latter half of the 20th century. The national laws of the nations that adopted these documents then incorporated this protection. The case law of the courts defending these laws establishes the precise meaning of privacy and the facets of life that can be deemed private; these papers do not provide more guidance on the subject. The question of whether the right to privacy could guarantee the protection of private life arose with the introduction of computers in the 1970s. This technological advancement gave rise to a new right, the right to data protection, whose subject matter is also the preservation of private life²².

Article 7 of the Charter of Fundamental Rights of the European Union (2000)²³ state that the right to privacy is a fundamental human right and everyone has the right for his/her private and family life, home and correspondence to be respected, and they have the right to protect themselves against such unlawful interference.

The rights to life and personal liberty include the right to privacy. Therefore, this privilege is recognised by various clauses of the constitution of United States and the United Kingdom, and India, for instance, the first, fourth, fifth and the ninth Amendments of the United States Constitution and Articles 19, 21 of the Indian Constitution. Through the rulings in a number of cases, this right has grown and been enhanced. However, not all places have a distinct legislation safeguarding the right to privacy, that ensures one's personal liberty²⁴. In addition to the above-discussed specific features of the right to privacy, there are other aspects of the right to privacy that must also be sufficiently safeguarded by statutory laws in each of these three countries.

In accordance of the United Nations Conference on Trade and Development (hereinafter

²² Justice K.S Puttaswamy v. Union of India

²³ Charter of Fundamental Rights of the European Union.

²⁴ Dr. Surendra Kumar Nirala, Right To Privacy: A Comparative Study, 08 APLPR 24 (2022).

UNCTAD)²⁵, out of 194 countries 137 countries worldwide have adopted the privacy and data protection laws. The countries within African and Asian Continent have shown high acceptance rate nearly about 57-61 percentage, and in respect to that they have enacted the legislations therein.

The first move was made by the European Union to enact the General Data Protection Regulation (GDPR), 2018²⁶ which has safeguarded the data of the citizens from unwarranted processing or any intrusion. This almost serves as the basis for all privacy and data laws around the globe, the countries are adopting it with various modifications in order to suit the situations. The data protection laws in Europe holds rigorous punishment and hefty penalties.

The US Constitution has granted the protection against the unwarranted lawful intrusion by Fourth Constitution Amendment. In the year 1972 California has amended its constitution in order to include privacy in the list of *inalienable rights*. In accordance with the amendment, there are several other legislatures has been enacted to safeguard the privacy of the netzines, i.e. the Privacy Rights for California Minors in the Digital World Act, 2013²⁷, the Online Privacy Protection Act, and the California Consumer Privacy Act, 2020 (hereinafter CCPA). This provides robust privacy and data safeguarding mechanisms. This also gives away the rights to the citizens to file a suit if the data is accessed without authorization, theft, exfiltration, or if there is violation of the duty to maintain and implement reasonable security and trials to safeguard one's personal information²⁸.

6. RIGHT TO PRIVACY AND SUSTAINABLE DEVELOPMENT

The growth of Information technology after 1970 ha shown a significant growth in the sustainable economic development. More effectually, the development of cyber security is the most important factor in ensuring sustainable development worldwide. The United Nation sustainable development goals (UNSDG) has also shown its attention towards the cybersecurity or the secure platform for the digital world which ultimately creates the trust and believe among the people; organisation; company and several other agencies who all are highly depend upon it by showing the safe and secure cyber environment.²⁹ Thrust in cyber spece or ICT is imperative for achieving

²⁵ <https://unctad.org/page/data-protection-and-privacy-legislation-worldwide>

²⁶ General Data Protection Regulation (GDPR) – Official Legal Text, GENERAL DATA PROTECTION REGULATION (GDPR), <https://gdpr-info.eu/> (last visited Apr 5, 2024).

²⁷ California Leads the Way on Children's Privacy Protection Laws, TRUSTARC,

²⁸ James C Harrison, 19-0017 (Consumer Privacy).

²⁹ Dr. Aparajita bhatt- Cyber security and sustainable development strategic policy analysis of india and Canada availab;e at <https://in.docs.wps.com/l/slpkuxrasAeuo7AG?v=v2>

the goals laid down in the United Nations Sustainable Development Goals. Absence of secured cyberspace would make it difficult to achieve the objectives of sustainable development.³⁰

The cyber security policy of India envisages a vision to build a secure and resilient cyberspace for citizens, businesses and government. The mission of the cyber security policy aims to protect the information and information infrastructure in cyber space, build capabilities to prevent and respond to cyber threats, reduce vulnerabilities and minimise damage from cyber incident through a combination of institutional structures, people, processes, technology and co-operation. As per the UNSDG, better policy making, better tools and techniques, better cyber architectural designing, collaborative efforts of private parties such as industries, media, civil societies and other national and international organizations will not only contribute towards improving the online safety and keep the world safe from cyber vulnerabilities and threats but also would act as fundamental infrastructure in achieving the global sustainable development goals³¹.

6.1 SUSTAINABLE DEVELOPMENT AND ICT

Emergence of new concepts such as artificial intelligence and Internet of things, although interesting and invented for the benefit of human but also has added more weight to the already existing debate that whether online privacy has totally evaporated? The Secretary General of the UN has quoted in the report on the group of government expert on developments in the field of Information and Telecommunications in the context of International security:³²

“Few technologies have been as powerful as information and communications technologies (ICTs) in reshaping economies, societies, and international relations. Cyberspace touches every aspect of our lives. The benefits are enormous, but these do not come without risk. Making cyberspace stable and secure can only be achieved through international cooperation, and the foundation of this cooperation must be international law and the principles of the UN charter...Our efforts in this realm must uphold the global commitment to foster an open, safe and peaceful Internet. In that spirit, I commend this report to the Assembly and to a wide global audience as a crucial contribution to the vital efforts to secure the ICT environment.”

It is a common consensus that there should be strong and robust cyber security mechanism needs to be designed for development across the globe. It will help to develop the trust in the digital

³⁰ Ibid

³¹ Ibid

³² <http://www.un.org/disarmament/topics/>

environment and promotes economic growth, social inclusion as well as innovation.³³ Interestingly, cyber security has become both technical as well as an economic issue as it fosters economic development goals. Sustainability is to thrive in the present along with the ability to thrive in the future.³⁴ A global culture of cyber security needs to be encouraged if the countries have to achieve development and sustainability together. We need such policies which strengthen security and sustainability while also preserving openness, interoperability and a global market for ICT.³⁵

6.2 UNSDG AND CYBER SECURITY

ICT has emerged as a new medium of economic growth and social development, The General Assembly of the United Nation adopted the 2030 agenda for the sustainable development³⁶ which encompasses a plan of action for people, planet and prosperity. In the absence of appropriate cyber security practices and mechanism, it shall become difficult to achieve the sustainable development target and goals. These goals have been considered critical for humanity and the planet. These goals have been considered critical for humanity and the planet. The vision of UN is to “envisages a world in which every country enjoys sustained, inclusive and sustainable economic growth and decent work for all. A world in which consumption and production patterns and use of all natural resources- from air to lands, from river, lakes, and aquifers to oceans and seas- are sustainable. One in which democracy, good governance and the rule of law, as well as an enabling environment at the national and international levels, are essential for sustainable development including sustained and inclusive economic growth, social development, environmental protection and the eradication of poverty and hunger. One in which development and the application of technology are climate-sensitive, respect biodiversity and are resilient. One in which humanity lives in harmony with nature and in which wildlife and other living species are protected.”

Trust and confidence is mandatory for achieving the goals of sustainable development when it talks about the ICT. The following sustainable development Goals of the UN explain how these goals can be furthered by a safe and robust cyber secure world³⁷:

³³ <https://www.sbs.ox.ac.uk/cybersecurity> -

capacity/system/files/WSIS%20cybersecurity%20white%20paper%201%20june%2016.pdf

³⁴ Dr. Aparajita Bhatt- Cyber security and sustainable development strategic policy analysis of india and Canada

<https://in.docs.wps.com/l/slpkuxrasAeuo7AG?v=v2>

³⁵ http://www.jeita.or.jp/japanese/topics/2013/1016/20131016_2pdf

³⁶ http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E

³⁷ <https://www.sbs.ox.ac.uk/cybersecurity> -

capacity/system/files/WSIS%20cybersecurity%20white%20paper%201%20june%2016.pdf

- a) **Develop industry, innovation, and infrastructure (SDG 9):** ICT can enable better management of infrastructure roll-out maintenance, increase agricultural productivity and provide additional business opportunities and market intelligence through online services.
- b) **Achieve gender equality and empower all women and girls (SDG 5):** ICT can enable access to information and services that empower women to participate and succeed in academia and business. Capacity building and user education on staying online can boost technology use to this end.
- c) **Make cities inclusive, safe, resilient and sustainable (SDG 11) :** ICT can enable sensing and communication technologies to more efficiently use resources, detect and mitigate natural disasters.
- d) **Revitalize the global partnership for sustainable development (SDG 17) :** ICT can connect people and institutions, enable sharing of information, and ultimately further the cross-pollination of ideas and innovation across industries.

7. CYBER SPACE AND THE IT LAWS : WITH SPECIAL REFERENCE TO IT (AMENDMENT)ACT,2008

The Information Technology Amendment Act 2008 is a substantial addition to the IT Act, 2000. The act is administered by the Indian Computer Emergency Response Team (CERT-In) and corresponds to the Indian Penal Code.³⁸ It is considered to be the highly progressive step to protect the cyber infrastructure and citizens of India.

The original version of the Act was developed to promote the IT industry, regulate e-commerce, facilitate e-governance and prevent cybercrime. It also gives provision for the establishment of the Cyber Appellate Tribunal to hear appeals from any person aggrieved by an order made under the act.³⁹ The Act further provides provision for the following :

- a) Tightening cybersecurity measures
- b) Establishing a legal framework for secured digital as well as electronic signature
(sec. 5, 15)
- c) Recognizing and regulating intermediaries (CH-XII, Section 79)
- d) Regulating interception, monitoring and decryption of electronic records
(Section 4; 6; 7; 14)

³⁸ <https://www.techtarget.com/whatis/definition/Information-Technology-Amendment-Act-2008-IT-Act-2008>

³⁹ Idbi

- e) Cyber forensics
- f) Cyberterrorism.(section 66F)

Following are some of the provisions of the Act, which is directly relate to cyber crime as well as right to privacy⁴⁰:

Chapter XI, Section 65, 66 and from section 66A to 66F of the IT (Amendment) Act,2008 deals in details about the offences related to computer and right to privacy

- a) Section 66 of the Act talks about the Tampering with computer source Documents and says that “ whosoever knowingly or intentionally conceals, destroy, or alters or intentionally or knowingly causes another to conceal, destroy, or alter any computer source code used for a computer, computer program, computer system or computer network, when the computer source code is required to be kept or maintained by law for the time in force, shall be punishable with imprisonment up to three years or with fine which may extend up to two lakh rupees or with both.
- b) Section 66 of the Act says that “ if any person, dishonestly or fraudently does any act referred to in section 43, he shall be punished with imprisonment for a term which may extend to 3 years or with fine up to 5 lakh or both.
- c) Section 66A of the Act deals with the punishment for sending offensive messages through communication services, etc.
- d) Section 66B of the Act deals with the provision of punishment for dishonestly receiving stolen computer resource or communication device.
- e) Section 66C of the Act deals with the provision of punishment for identity theft
- f) Section 66D of the Act deals with the provision of punishment for cheating by personation by using computer resources
- g) Section 66E of the Act specifically talks about the punishment for violation of privacy. Section 66E says that “Whoever, intentionally or knowingly captures, publish, or transmits the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person, then he/she shall be punished wit the imprisonment which may extend to 3 years or with fine not exceeding 2 lakh rupees, or with both.
- h) Section 66F of the Act talks about the punishment for cyber terrorism and the condition when any crime be considered as the cyber terrorism.

⁴⁰ Information Technology (AMENDMENT) Act,2008

8. CONCLUSION

The right to privacy is a very important right which allows individuals to keep their things private. The right to privacy is a debatable topic around how much privacy individuals should have or the limits of privacy. It helps to keep the people and society at a whole safe from crime and terrorism. The government takes the data from people to monitor their activities, but this can also fall as a violation of the right to privacy.

In this digital era, technology made privacy complicated. Through the internet, smart phones and artificial intelligence, governments and organisations collect the data or information from the people. Although the right to privacy is a natural right, through technology collection of data is very easy, but it creates difficulties of people to keep their data private.

The right to privacy includes freedom of speech and association, which comes under right to life and liberty under constitution of India. The rapid expansion of Internet of Things(IoT) technology in modern era has presented both opportunities and challenges for Data privacy and data protection in India. The abstract and subsequent discussion shed light on the legal and regulatory landscape surrounding data privacy, right to privacy and data protection, particularly in the context of IoT devices and its modern challenges. From examining the complexities of data collection to exploring the inadequacies of current legal frameworks, it is evident that safeguarding data privacy in the modern era requires a comprehensive approach.

In India, the introduction of the DPDP Act,2023 signifies a significant step towards enhancing data privacy and data protection rights. This legislation sets guidelines for organisations to handle personal data responsibly, emphasizing transparency, consent and data security. Additionally, the existing legal framework , including the ITAct and recent amendments along with judicial interpretations, underscores the country's commitment to protecting privacy right.

In enhancing the right to privacy and in order to make it more effective, under the United Nations Sustainable Development Goals, it provides certain principals has been discussed in detail above which clearly shows the importance of right to privacy and the need of protection of such Right at regional as well as international level so that to have sustainable economic development in one hand and the existence of trust and belief of the individuals upon the government and its agencies should continue.

SUGGESTION

1. Strengthen data privacy and data protection laws in India.

2. Promote awareness campaigns and educational initiatives to empower individuals about their data privacy and data protection rights.
3. Encourage collaboration and cooperation between countries to address data privacy and data protection concerns on a global scale. International agreements and collaborations can help establish common standards and ensure consistent protection of personal data.
4. Promote ethical data principal and practices among businesses and organisation, encourage transparency, consent-based data collection, and responsible data handling to build trust and protect individuals privacy
5. Need to encourage by supporting the efforts of regulatory body in enforcing data privacy and data protection regulation. There should be support by the government for research and innovation in the field of data privacy and data protection.

