

RIGHT TO PRIVACY THROUGH THE GLASS OF INDIAN CONSTITUTION

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ABSTRACT-

A very fascinating development of Indian Constitutional jurisprudence is the extended dimension given to Article 21 by the Supreme Court of India. Article 21 is the heart of Fundamental Rights. Article 21 proved to be multi-dimensional. The extension of Article 21 has been made possible by giving an extended meaning to the word 'life' and 'liberty' in Article 21. These two words in Article 21 are not read narrowly.

INTRODUCTION-

Article 21 of the Constitution of India states that "No person shall be deprived of his life or personal liberty except according to the procedure established by law". After reading Article 21, it has been interpreted that the term 'life' includes all those aspects of life, which go to make a man's life more meaningful, complete, and worth living.

A nine-judge bench of the Supreme Court held that the right to privacy is protected as an essential part of the right to life and personal liberty under Article 21 and as a part of freedom guaranteed by part III of the Indian Constitution. Examining the constitutional validity of the Aadhaar Act, the Supreme Court held that it is beneficial legislation aimed at empowering millions of people in the country. Different issues were highlighted for the government's initiatives such as Digital Locker and other digital services through the Digital India Scheme. The Supreme Court has taken efforts to the betterment of the right to privacy over some time. The private sector could be a threat to the right to privacy. Questions have popped up about the use of personal information. The Vishakha v/s State of Rajasthan¹ enforced fundamental rights against private persons also. Here the Supreme Court issues detailed guidelines for the protection of fundamental rights under Articles 14, 19, and 21. These guidelines were issued for mandatory adoption by all workplaces, which include both Government and Private sectors. This case indicates that the Supreme Court has not restricted individuals from the appeal to the court for writs and enforcement of fundamental rights against the state only. There thus exists the possibility of enforceability of fundamental rights against the private body as well.

¹Vishakha v/s State of Rajasthan and others (1997) 6 SCC 241,AIR 1997 SC 3011 BHRC 261

HISTORY–

The right to privacy has not been stated as a fundamental right under the Constitution of India. The scope of this right first came in *Kharaksingh v/s State of Uttar Pradesh*², which was bothered with the efficacy of certain rules that permitted surveillance of suspects this right of privacy is studied as the right to be alone.

In *Smt. Maneka Gandhi v/s Union of India*³ the Supreme Court held that ‘personal liberty’ under Article 21 covers many rights & and some have the status of fundamental rights and given additional protection under Article 19 of the Constitution of India. Triple test under personal liberty as follow-

1. It must prescribe a procedure.
2. The procedure must withstand the test of one or more of the fundamental rights conferred under Article 19 of the Indian Constitution, which may be applicable in a given situation.
3. It must withstand the test of Article 14.

In *K.S. Puttaswamy (RETD). Ors v/s Union of India*⁴ is a resounding victory of privacy. The result of a petition challenging the constitutional validity of Indian biometric identity scheme Aadhaar. The judgments ringing endorsement of the right to privacy as a fundamental right marks a watershed moment in the constitutional history of India. The one-page order signed by all nine judges declares:

The Right to Privacy is an intrinsic part of the right to life and personal liberty Under Article 21 and as a part of freedoms guaranteed by part III of the Constitution.

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CONCLUSION & SUGGESTION-

With the recognition of the right to privacy as a fundamental right of an individual, India definitely cannot lack behind. The judgment of the Supreme Court is correct and true that with the growing IT sector there is a need for privacy for every individual so that right of the individual is not harmed and is protected. It is also true that more strict laws in India order to protect the privacy of an individual. An expert committee must be formed to make good laws

²*Kharak Singh v/s State of Uttar Pradesh* 1963 AIR 1295, 1964 SCR (1) 332

³*Maneka Gandhi v/s &Anr*, 1978 SCR (2) 621

⁴*K.S. Puttaswamy (RETD) and Ors v/s Union of India* , 2015(8) SCALE 747

and every entity whether the Government, the Non-Government sector, or even a citizen should follow all laws properly to enjoy every single right by the citizen of India. Individual interest cannot override individual public interest. The maxim “SALUS POPULI EST SUPREMA LEX” which means public welfare is the highest law must be maintained in democracy. There must be regulation on the arbitrary use of the power of Government concerning the personal information of the people. There should be strict guidelines concerning the tapping of the telephone and permission from higher authorities must be made mandatory.



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