



# The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-

Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

---

## PRIVACY AS LAW.

*-Shivanshi Mishra*

### ABSTRACT

Privacy is more than a locked diary; it is the legal space in which an individual remains free to think, choose, speak, and exist without becoming public property. This paper traces privacy from a social instinct to a multidimensional legal right encompassing physical, informational, decisional, and communicational autonomy. It explores its international recognition and India's constitutional journey culminating in the recognition of privacy under Article 21. In the digital age, where every click leaves a footprint, privacy faces unprecedented challenges from surveillance, profiling, and data exploitation. The paper argues that privacy is ultimately about power, dignity, and control—ensuring technology serves people without turning them into objects.

### INTRODUCTION

Privacy is the diary. Only one or a few persons have access to it, and even these selected ones do not know its entire content. The privacy of this diary can be violated, but only by its owner, who possesses the key to it.

Privacy in law means more than secrecy. It means the legal authority to determine when, how, and to what extent personal life is revealed to others, whether the “others” are the State, corporations, or curious crowds. It's a principle that once breached cannot be restored,

THE INDIAN JOURNAL FOR RESEARCH IN LAW AND MANAGEMENT, VOL. 3, ISSUE 11, AUGUST - 2026  
accentuating the solemn duty to defend it with unwavering fidelity, as though carrying it to the grave.

International law also supports this idea as observed in *Article 17 of the ICCPR*<sup>1</sup>. It protects people against arbitrary or unlawful interference with privacy, family, home, or correspondence. The value of the privacy concept emanates from the fact that it safeguards one's personality until it is unveiled. It covers various aspects of a person's being, including the body, private papers, secrets, reputation, and the right to be left alone. In this regard, privacy is a law principle; the law itself is one of its principles. In fact, the law's duty is to protect personal privacy while at the same time ensuring that such protection does not prevent State activities and technological advancements..

### **PRIVACY: FROM SOCIAL VALUE TO LEGAL RIGHT**

The concept of privacy enjoyed social recognition long before modernity. Ancient societies understood and respected the need for privacy in personal matters, family life, and correspondence, even though the recognition was largely based on customary rights, not obligatory principles of law. However, the foundations of privacy as a legal concept were laid by philosophers who recognized privacy as a fundamental aspect of human life. For example, *Aristotle* identified the public and the private, designating the latter as the place where individuals exercised personal freedom away from their societal life. Centuries later, the political philosophy of *John Locke* focused on the theme of liberty and privacy.

In the 19th century, the right to privacy gradually acquired a legal dimension. In particular, in 1890, in the *Harvard Law Review*, *Samuel D. Warren and Louis D. Brandeis* introduced the phrase "the right to be let alone,"<sup>2</sup> which has since become sacred in law. Their article highlighted the fact that the then-current common law was inadequate in protecting personal dignity, and, despite the simplicity of the formulation, it drew attention to the fact that a person has various interests beyond material ones.

In the twentieth century, the concept of privacy acquired a wider recognition as statesmen realized the need to guarantee, through appropriate measures, the right of each individual to seclusion, and publicity, in particular, of private life. In addition, judicial practice also advanced

---

<sup>1</sup> International Covenant on Civil and Political Rights art. 17, Dec. 16, 1966, S. Exec. Doc. E, 95-2 (1978), 999 U.N.T.S. 171.

<sup>2</sup> Samuel D. Warren & Louis D. Brandeis, *The Right to Privacy*, 4 Harv. L. Rev. 193 (1890).

---

As a result, a person's privacy now encompasses a wide range of rules that protect both physical and psychological aspects of human life. Today, most privacy scholars identify four key areas:

- physical privacy, which protects people from unwanted physical intrusions such as unsolicited touching, unwelcome medical examinations, and unauthorized searches,
- informational privacy, which ensures the protection of personal information,
- decisional privacy, which protects an individual's personal decisions and freedom of choice,
- communicational privacy that safeguards people's communication from unauthorized surveillance.<sup>3</sup>

All in all, privacy is now regarded as a multi-faceted legal concept that covers a wide range of areas.

## **PRIVACY AS A HUMAN RIGHT UNDER INTERNATIONAL LAW**

The idea of privacy as a human right has been around since the end of the Second World War. Many international human rights documents say that people have the right to privacy to protect them from governments and organizations that might be watching them. For example Article 12 of the Universal Declaration of Human Rights<sup>4</sup> says that every person has the right to privacy a family life, a home and private correspondence as well as a good reputation and honor and nobody can just interfere with these things. Even though the Declaration is not a law it has had an impact on how many countries write their constitutions and how international human rights law works.

---

<sup>3</sup> Bert-Jaap Koops et al., *A Typology of Privacy*, 38 U. Pa. J. Int'l L. 483 (2017).

<sup>4</sup> G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 1 (Dec. 10, 1948).

THE INDIAN JOURNAL FOR RESEARCH IN LAW AND MANAGEMENT, VOL. 3, ISSUE 11, AUGUST - 2026  
The International Covenant on Political Rights<sup>5</sup>, which was written in 1966 also talks about this issue in Article 17 saying that countries have to protect people from interference with their privacy and make sure they have a way to fix things if their privacy is violated.

---

On Europe and America developed similar rules to protect privacy. For instance the right to privacy is part of Article 8 of the European Convention on Human Rights<sup>6</sup>. This means that nobody can interfere with a person's life, family, home or private letters unless it is against human rights and basic freedoms. Also any limits on privacy have to be lawful and necessary for a democratic society to work. The European Court of Human Rights has made some of the complete frameworks for privacy law, which has influenced other places outside of Europe.

Basically international law says that privacy is a right that has some limits. This means that countries can restrict privacy if they need to for security, public safety or to protect other people's rights. However they have to make sure that limiting privacy is fair and follows law. Overall these laws are now the foundation of privacy law, in societies.

## THE CONSTITUTIONAL JOURNEY OF PRIVACY IN INDIA

Unlike many modern constitutions, the Indian Constitution does not explicitly mention privacy. However, the Indian Supreme Court, as one of the world's leading judicial institutions, has been gradually enhancing the concept, particularly by developing constitutional jurisprudence on the right to privacy.

In the early years of India's independence, the Court adopted a fairly narrow view of the right to privacy. In particular, in the case *M.P. Sharma v. Satish Chandra*<sup>7</sup>, an eight-judge bench ruled that, strictly speaking, the Constitution does not explicitly enshrine this right, referring to the search and seizure provisions. A similar position was expressed in the *Kharak Singh v. State of Uttar Pradesh*<sup>8</sup> case, where the majority of the nine-judge bench ruled that privacy was not a fundamental right. However, a notable exception was *Justice Subba Rao*, who strongly disagreed with the majority, arguing that personal liberty includes freedom from unwarranted surveillance.

---

<sup>5</sup> International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171.

<sup>6</sup> European Convention on Human Rights, Nov. 4, 1950, E.T.S. No. 005, 213 U.N.T.S. 221.

<sup>7</sup> *M.P. Sharma v. Satish Chandra*, AIR 1954 SC 300, 303 (India).

<sup>8</sup> *Kharak Singh v. State of U.P.*, (1964) 1 S.C.R. 332, 345 (India).

THE INDIAN JOURNAL FOR RESEARCH IN LAW AND MANAGEMENT, VOL. 3, ISSUE 11, AUGUST - 2026  
In subsequent years, the Court began to adopt a more progressive position, elaborating on the constitutional basis for the right to privacy. In particular, in the *Gobind v. State of Madhya Pradesh*<sup>9</sup> case, the Court recognized that the right to privacy could be derived from the right to personal liberty under Article 21<sup>10</sup>. However, the Court refused to go further and state that the

---

right to privacy was absolute, noting that only some aspects of personal life were protected by the Constitution. Later, in a series of landmark cases, including *R. Rajagopal v. State of Tamil Nadu*<sup>10</sup> and *People's Union for Civil Liberties v. Union of India*<sup>11</sup>, the Court examined various aspects of the right to privacy. For example, the first-mentioned case recognized a person's right to control publication of personal information, while the second one ruled that telephone tapping without safeguards was an act of privacy violation. All these cases laid the groundwork for the constitutional right to privacy, which the Supreme Court finally recognized in *the Justice K.S. Puttaswamy (Retd.) v. Union of India case*.<sup>12</sup>

## THE DIGITAL AGE CHALLENGE

The digital age has made our personal information. Very important and very fragile. Every time we click on something, search for something, make a payment or share our location it can reveal a lot about us. It can show what we like, what we believe in, what we are worried about, who our friends are and what we are scared of. So the law has to protect us not from people who might physically intrude on our private space but also from people who might take our personal information without us knowing.

This is where the law gets creative. It does not just protect our homes and our personal belongings it also protects our information the apps we use, our biometric data, the cookies on our computers and the way companies use our information to create profiles about us. Even if nobody is following us around we can still be tracked through the information we share online. That is why the law talks about getting our consent being clear about what our information's being used for and making sure that companies are accountable for what they do with our information.

---

<sup>9</sup> *Gobind v. State of M.P.*, AIR 1975 SC 1378 (India). <sup>10</sup>  
INDIA CONST. art. 21A.

<sup>10</sup> *R. Rajagopal v. State of T.N.*, (1994) 6 S.C.C. 632 (India).

<sup>11</sup> *People's Union for Civil Liberties v. Union of India*, (1997) 1 S.C.C. 301 (India).

<sup>12</sup> *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 S.C.C. 1 (India).

India has a law called the Digital Personal Data Protection Act, 2023<sup>13</sup>. This law is very clear about how our personal information should be protected. The title of the law shows that it is trying to balance two things, our right to keep our information private and the need for companies to use our information for reasons.

---

The law sets out a framework for how our information should be handled. It says that companies should tell us what they are doing with our information get our consent use our information for lawful purposes and give us the right to access to a limited extent, correct and erase our information. It also gives us the right to nominate someone to manage our information after we are gone. In terms the law is saying that our information can be shared but it has to be shared in a way that is controlled and safe.

### **WHY IT MATTERS?**

Our personal information matters because it is not about protecting our data it is about protecting our freedom to think, choose and express ourselves without being constantly watched. When we know that we are being watched all the time we start to edit what we say and do. That is not good for our democracy.

There is also a reason why our personal information matters for our democracy. When we have the space to read, speak and explore without being profiled we are more likely to form our opinions and question authority. This private space is not a luxury it is a part of being free. When our personal information is not protected our autonomy and freedom to disagree with those in power are weakened.

At the time our personal information is not absolute. The law has to balance our right to privacy with legitimate interests like security, public order and the rights of others. The goal of the law is not to eliminate all limits on our information but to make sure that these limits are fair, proportionate and lawful.

### **CONCLUSION**

If we had to describe our information in one sentence it would be this: our personal information is the recognition that we are not public property. That is why the law around our information

---

<sup>13</sup> The Digital Personal Data Protection Act, 2023, § 2(i), Act No. 22 of 2023 (India).

THE INDIAN JOURNAL FOR RESEARCH IN LAW AND MANAGEMENT, VOL. 3, ISSUE 11, AUGUST - 2026  
feels both personal and institutional. It protects our letters, our online information, our homes  
and our digital footprint.

This dual nature of our information makes it one of the most interesting areas of the law. It is  
part of law, tort law, criminal law, technology law and human rights law. That is why disputes  
about our information are rarely just about data they are about power, vulnerability, identity  
and control. The law around our information is the story of how the legal system learned to  
respect the person behind the online profile. In India this story is now based on the recognition  
of our right to privacy in the constitution and the development of the Digital Personal Data  
Protection Act 2023. The result is a system that treats our personal information not as a privilege  
but as a condition for dignity, liberty and democratic life.

The real challenge ahead is not whether our personal information exists in the law but whether  
the law can keep up with technology without turning us into objects. The answer will determine  
whether the digital future is a space for freedom or just a room, with no walls.

---

## **BIBLIOGRAPHY**

1. Privacy Law, Stanford Encyclopedia of Philosophy, available at  
<https://plato.stanford.edu/entries/privacy/>.
  2. A Brief Introduction to the Right to Privacy – An International Legal Perspective, GlobaLex,  
N.Y.U. Sch. of L., available at  
[https://www.nyulawglobal.org/globalex/right\\_to\\_privacy\\_international\\_perspective.html](https://www.nyulawglobal.org/globalex/right_to_privacy_international_perspective.html).
  3. Privacy Law, ScienceDirect Topics, available at  
<https://www.sciencedirect.com/topics/social-sciences/privacy-law>.
  4. The Digital Personal Data Protection Act, 2023, India Code, Ministry of Electronics and  
Information Technology, available at  
<https://www.indiacode.nic.in/handle/123456789/22037?locale=en>.
-