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Right to privacy and Media

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Abstract

In this article we discuss the Right to privacy and Media. We discuss in detail about right to privacy, the role of media, media trials, right to privacy and social media and statutory laws which have been enacted in India regarding this aspect of rights. A need for media houses and journalists to abide by their ethical principles and values is highest today when compared to anytime in history. I hope that this article will provide an insight about the right to privacy and media and will help you to build an idea on this topic.

Introduction

As Indians we have been very lucky to enjoy a series of fundamental rights. The latest addition to these rights is the Right to privacy. Right to privacy is something that is associated with human dignity. In Justice K.S. Puttaswamy (Retd.) & Anr. v. Union of India & Ors. (2015) the honourable Supreme Court had held that privacy is a fundamental right under Article 21 of the constitution. In the midst of globalization and technical advancements there is a chance of mishandling of private data even though it is protected with care and diligence. In recent times we have seen the highest misuse of private data particularly by the media. This includes all kinds of media: Mainstream Television Media, Print Media, Digital Media, video platforms and most importantly social media fuelled by hate. Freedom of Press and Right to privacy are both integral parts of our constitution, hence it becomes very important that these two rights go hand in hand.

Right To Privacy

As a new discipline privacy is still a growing area of law theoretically, but in normal words privacy can be traced back to human existence. For any man to be able to work and contribute to the society positively and freely, it becomes necessary that man has some “me” time. Right to Privacy essentially means for a person to enjoy individual autonomy and confidentiality. For this very purpose man built for himself a home and many other things with time. But in recent times it has become necessary that more discussions on the right to privacy happen. A nine-judge bench of the Supreme Court headed by Chief Justice JS Khehar, ruled on August 24, 2017, that the Right to Privacy is a fundamental right for Indian citizens under the Constitution of India (mostly under Article 21 and additionally under Part III rights).

It would be proper to recall a quote from Russian American Writer and Philosopher Ayn Rand here: "Civilization is the progress toward a society of privacy. The savage's whole existence is public, ruled by the laws of his tribe. Civilization is the process of setting man free from men."

Role of Media

As we all know, in a democracy, the media plays a very important role in safeguarding the rights of people and in ensuring that the government works democratically and protects the interests of its citizens. Right to information and the right to communicate the information via media is guaranteed under Article 19(1) (a) of the Constitution of India. In *State of Uttar Pradesh v Raj Narain*, the Supreme Court of India held that Article 19(1) (a), in addition to guaranteeing freedom of speech and expression, guarantees the right to receive information on matters concerning public interest.

When in the process of fulfilling this duty, the media sometimes has to enter into the private space of people. As the saying goes "With great power comes great responsibilities", so it becomes necessary that when the media enters into this private space of people, they remember that they have the responsibility to protect the right to privacy. Though the press is playing a crucial role in public welfare it needs to act responsibly. For example, the writ petition filed by Ratan Tata before the apex court of India to deal with unauthorized publication of his private talk with Nira Radia infringing the right to his privacy. The writ filed before the Supreme Court challenged the publication.

Media Trials

In a web series named *Criminal Justice: Behind Closed Doors*, an Indian Hindi-language legal drama web series on Hotstar, we find a scene where the prosecution lawyer tries to use the media to have an influence on the case by showing the accused as guilty. He also says that this will have an impact on the court's verdict. The sad part is that this is not just limited to a web series or movie. This is happening in 21st Century India. In the case of "*Liberation Front v. State of Andhra Pradesh*." It was held that "Once an incident involving a prominent person or institution takes place, the media is swinging into action virtually leaving very little for the prosecution or the Courts to examine in the matter.

Recently, it has assumed dangerous proportions, to the extent of intruding into the very privacy of individuals. Gross misuse of technological advancements and the unhealthy competition in the field of journalism resulted in obliteration of norms or commitments to the noble profession. The freedom of speech and expression, which is the bedrock of journalism, is subjected to gross misuse. It must not be forgotten that only those who maintain restraint can exercise rights and freedoms effectively".

Recently we have seen many cases where media trials have taken place, of them the suicide case of bollywood actor Sushant Singh Rajput can be said to be one of the worst. The Media was very brutal in naming various abettors for his act of suicide. Actress Rhea Chakraborty was in the front line of the firing. Subjected to gossip, innuendo, and misogynistic abuse, she was described by conservative television hosts as a "manipulative" woman who "performed black magic" and "drove Sushant to suicide." One fan of Rajput gave her rape and death threats on Instagram and even went on to say that commit suicide or else I

will send people to kill you. On 27 August 2020, BBC News reported that in the wake of Rajput's death, Chakraborty had "found herself at the centre of a vicious hate campaign led by some of India's most high-profile journalists and social media trolls." Some others also brewed conspiracy theories calling it a murder. In a litigation before the Bombay HC regarding the same issue the Bombay HC had held in January 2021 that "Media trial leads to interference and obstruction to administration of justice and violates programme code under the Cable TV Network Regulation Act,". A bench of Chief Justice Dipankar Datta and Justice GS Kulkarni said some reportage by Republic TV and Times Now in the aftermath of the death of actor Sushant Singh Rajput was "contemptuous".

Media Trial is not only an invasion of privacy but also a threat to human dignity and life. Media gives its decision on the case prior to the court. This decision is based on popular sentiment of the masses and running such a story helps in raising the TRPs. May be regarding media trials all we can say is that Media Trials are done by those media houses who have no journalistic ethics and values, hence these media cannot even be called media.

Right To Privacy and social media

After the advent of social media, the whole world has now come into man's fingertips. All information regarding a person is now available on the internet. As the saying goes, excess of elixir also acts like poison, in the same way excessive use and giving away private data on social media can backfire on us.

A lot of cases where mobiles, laptops or other personal devices are hacked to obtain private photos, data and other information from people and later used to blackmail or extort money from the victim have taken place. Social Media users often tend to misuse the freedom to self-publish by indulging in character assassination of individuals, organization misusing their personal information.

A huge debate is going around now about the new privacy rules laid down by various social media platforms.

Statutory Provisions

Although the Right to Privacy has been identified as a fundamental right by the Supreme Court there are no legislations in India yet. Many have opined that there is an urgent need for a law to protect the privacy of people to protect the right to privacy. We already have a lot of victims of over aggressive, irresponsible journalism. The parliament enacted the Information Technology Act, 2000. This Act does not completely dilute the risk of cybercrimes but reduces it to a certain extent. Sections 43, 66, 66F and 67 of the Information Technology Act, 2000 protect the user's privacy against data-related crimes. Offences such as libel and slander are punishable under the ambit of the Indian Penal code. In the *Kharak Singh v State of UP*, often called the PUCL case, it was held that tapping of phones amounts to a breach of privacy.

Conclusion

In this changing world it becomes very necessary that everyone gets accustomed to the changes. But the new developments have made sure that people are always in trouble some way or the other. Right to privacy is one of those rights which comes into light only when it is violated. Prior to 2017, it was not considered a fundamental right and hence, had no express value. But since 2017, its scope has changed and a number of privacy infringement writs have been filed in various high courts across the country and the Supreme Court. A happy balance needs to be struck between a fearless and free right to speech and proving the supremacy of law over pugnacious, malignant and unethical behaviour from the fourth pillar of democracy. Let us hope that the government brings a law to safeguard this very important right of the common man.

References

<http://racolblegal.com/right-to-privacy-in-india-role-of-the-media/>

<http://www.legalservicesindia.com/law/article/10/28/Right-To-Privacy>

<https://cis-india.org/internet-governance/blog/privacy/privacy-media-law>

<https://www.lawyersclubindia.com/articles/Rights-of-Media-and-Privacy-Issues-Bridging-the-Gap--3927.asp>

<https://legaldesire.com/freedom-of-press-and-right-to-privacy-in-india/>

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