



# Article 21 Of The Constitution Of India And The Right To Privacy In The Digital Era: An Analytical Review

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## 1. Abstract

In today's world, digital technology has become an integral part of people's daily lives. With the increasing dependence on the internet, smartphone, social media and online services personal information has now become an important asset. In this situation the question of privacy has emerged as not only a moral or social issue but also a method of constitutional right. Article 21 of the Constitution of India which guarantees the right to life and personal liberty has been expanded over time to judicial interpretation.

The landmark judgement of the supreme court in the case of Justice KS Pattaswami vs. Union of India in 2017 is an important milestone in this evolution. A nine judge bench unanimously declared that privacy is a fundamental right to shrink in article 21 of the constitution. This judgement let the Constitutional foundation for the protection of citizens data in the digital era

This paper analyzed the historical evolution of article 21, the need for privacy in the digital era, State surveillance, cyber security and the events of the digital personal data protection Act 2023. The conflict between personal freedom and national security is also discussed. The study seeks to show that privacy is an essential constitutional value for protecting human dignity in the digital era.

## 2. Keywords

Article 21, Right to Privacy, Indian constitution, Digital era, Fundamental Rights, Data Protection

## 3. Introduction

Privacy is a fundamental concept of modern democratic states, which is deeply connected with the independent existence, dignity and autonomy of the individual. In a general sense, privacy refers to the right of an individual to be free from unwanted interference in his private life, information, communication and decision-making. It is one of the main elements of protecting the individual's autonomy. Article 21 of the Constitution of India states that—

“No person shall be deprived of his life or personal liberty except in accordance with the procedure established by law.” The maker of the Constitution initially accepted this article as a protection of physical liberty. That is, its main purpose was to protect citizens from illegal detention, arrest or state repression. But through active interpretation by the judiciary, this article gradually began to include a wide range of rights to human life.

Especially since the 1970s, the Supreme Court has interpreted the word “life” not only as the right to life, but also as the right to live with dignity. Various aspects of education, health, environment, dignity and personal liberty are included in Article 21. As technology advances, people's lives are increasingly shifting to digital platforms, the question of personal data protection comes to the fore.

In today's era, a person's identity, financial information, health information, communications, and even political opinions are saved as digital data. As a result, losing control over information means losing personal freedom. In this context, the question arises—will digital information get constitutional protection?

This question was answered by the Puttaswamy judgment, where the court declared that privacy is an integral part of human dignity and it is included in Article 21. As a result, privacy is recognized as both a negative right (freedom from state interference) and a positive right (protection by the state).

This change in the digital era establishes the Constitution as a living document, capable of taking on new meanings as the times require.

#### **4. Historical Evolution**

The constitutional recognition of privacy in India was not established overnight; rather, it is the result of a long judicial evolution.

The first important case was *M.P. Sharma vs. Satish Chandra* (1954). Here, in the context of search and seizure, the court held that unlike the US Constitution, the Indian Constitution does not provide for a separate right to privacy. As a result, privacy was not recognized as a fundamental right.

The next important case was *Kharak Singh v. State of Uttar Pradesh* (1962). This case was about the legality of police surveillance. The majority of the judges said that privacy was not a separate fundamental right. However, Justice Subba Rao, in his dissent, mentioned the relationship between privacy and personal liberty, which formed the basis for future judicial thinking.

The court was in a state of ambivalence for a long time after that. But technological changes and international discussions on human rights changed the perspective of the judiciary.

The final form of this section was seen in the historic 2017 case of Justice K.S. Puttaswamy vs. Union of India. The nine-judge Constitution bench unanimously declared that privacy is a fundamental right of the Constitution, and that it is linked to Articles 14, 19 and 21, and is a key element of human dignity and personal autonomy. The judgment effectively overturned the earlier position of *M.P. Sharma* and *Kharak Singh*. The court recognised the concept of “informational privacy”, which forms the constitutional basis for digital data protection. As a result, Article 21 was transformed from a static provision to a technology-sensitive right.

#### **5. Need for Digital Privacy**

The digital economy has turned information into a new power. Social media, search engines and e-commerce platforms are collecting vast amounts of data by analyzing human behavior. Technology companies like Google or Facebook collect user search history, location, preferences and communication data and gain commercial profit through algorithmic analysis. As a result, the question of individual consent and data control has become very important.

Secondly, state surveillance has created new controversies in the digital age. Spyware, phone tracking or CCTV surveillance, although necessary for security, can violate the limits of personal freedom. The Pegasus spyware controversy shows how difficult it is to maintain a delicate balance between surveillance and civil liberties.

Thirdly, cybercrime is growing rapidly. Bank fraud, identity theft, data leaks, etc. directly threaten the economic and social security of individuals. The theft of personal information does not only mean financial loss; it is an attack on the dignity and freedom of the individual. For this reason, digital privacy is very important as part of Article 21.

In the era of digital citizenship, if individuals do not have control over information, democracy can also suffer. Micro-targeted political advertising can influence voter behavior, which undermines the transparency of the democratic process.

Therefore, digital privacy is not just a personal right; it is a condition for the protection of democracy, freedom, and human dignity.

## 6. Digital Personal Data Protection Act, 2023

The Government of India has enacted the Digital Personal Data Protection Act, 2023 to protect data in the digital era. This Act is considered to be India's first comprehensive data protection framework.

The main feature of the Act is “consent-based data processing.” That is, an organization is obliged to obtain the explicit consent of the user before collecting personal data. It defines the citizen as the “Data Principal” and the organization collecting the data as the “Data Fiduciary”.

According to the Act, the rights of the citizen are—

- I. Right to know the purpose of use of the data,
- Ii. Right to rectify the data,
- Iii. Right to delete the data,
- Iv. Right to lodge a complaint.

Violation of the Act has provided for huge financial penalties against the organization, which increases corporate liability.

However, there are some limitations to this Act. The government can exempt some provisions of the Act in certain cases—due to national security, public order or state interest. Critics say the provision increases the potential for state surveillance and could conflict with the principle of proportionality enshrined in the Puttaswamy judgment.

Another criticism is that the powers of independent data protection authorities are limited. As a result, the future of how effective the actual implementation will be remains to be seen.

Nevertheless, the DPDP Act is an important step towards India’s digital constitutionalism, as it recognises citizens’ data as a legally protected asset for the first time.

## 7. Challenges & Controversy

The biggest debate in the field of digital privacy is the conflict between national security and personal freedom. The state argues that surveillance is essential to combat terrorism, cybercrime and disinformation. But in a democratic philosophy, individual freedom sets the limits to state power.

According to Ambedkar, the state is the protector, not the regulator of citizen’s freedoms. Excessive surveillance can create a “surveillance state”, which is dangerous for democratic values.

The data localization debate is also important. While India’s demand to store data within India strengthens state sovereignty, it also increases costs for technology companies and could limit global data flows.

Another problem is the lack of digital literacy. Many citizens are unaware of how their data is being used. As a result, consent often becomes formal, not real.

All these controversies show that digital privacy is an ongoing constitutional negotiation, the final shape of which is yet to be determined.

## 8. Conclusion

The digital age has opened up new possibilities for human civilization, as well as new risks. In an information-based society, the identity, freedom and dignity of the individual have become increasingly intertwined with data. As a result, personal privacy is no longer a luxury; it is a basic condition for survival.

The judicial evolution of Article 21 proves that the Indian Constitution is a living document. Puttaswamy Roy has linked the Constitution to the digital reality and placed human dignity at the center.

In my opinion, the interpretation of the Constitution in the future must be more technology-sensitive. In the era of artificial intelligence, biometric data and big data, a strong regulatory framework is essential

to protect privacy. While state security is necessary, it should be limited to the principles of proportionality and accountability.

Therefore, Article 21 should be seen not only as a legal provision, but also as the basis for the dignified existence of the modern digital citizen. Along with the advancement of technology, the Constitution must also remain progressive and human-centric.

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