

International Journal of Law Research, Education and Social Sciences

Open Access Journal – Copyright © 2026 – ISSN 3048-7501
Editor-in-Chief – Prof. (Dr.) Vageshwari Deswal; Publisher – Sakshi Batham



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.

Judicial Interpretation of Privacy Rights in India: A Historical Overview

Akansha Kumari^a

^aChandigarh University, Mohali, India

Received 21 April 2026; Accepted 20 May 2026; Published 25 May 2026

*This article follows the historical development of the privacy right in India and attempts to determine the judicial interpretation of it, starting with the constitutional drafting phase till the 2017 landmark verdict of the Supreme Court. During the drafting of the Constitution, a deliberate exclusion of the right to privacy was made in the framework of fundamental rights in India after there were disagreements in the Advisory Committee on Fundamental Rights. Subsequent Supreme Court decisions, over the next decades, such as *M.P. Sharma v Satish Chandra* (1954) and *Kharak Singh v State of Uttar Pradesh* (1962), continued to assert that privacy was not a fundamental constitutional right. Nonetheless, a judicial transformation commenced gradually with cases like *Govind v State of Madhya Pradesh* (1975), *PUCL v Union of India* (1996), *Mr. X v Hospital Z* (1999) and *Ram Jeth Malani v Union of India* (2011) where privacy was progressively considered as an implicit dimension of the Article 21 (Right to Life and These cases dealt with various area of privacy such as surveillance, telephone tapping, health confidentiality and financial data. The jurisprudential quest found its final victory in *Justice K.S. Puttaswamy v Union of India* (2017), in which the right to privacy was affirmed by a nine-judge bench to be one of the fundamental rights under Article 21, striking down previous precedents. The ruling accepted privacy to encompass personal autonomy, bodily integrity, and a right to control over personal information, which has immense consequences on personal information security and state surveillance in the digital era. This article concludes that the expansion and formation of privacy rights in India has been largely effected by judicial interpretation, which forms the foundation of current legislation and policy regarding the protection of data.*

Keywords: *right to privacy, fundamental rights, judicial interpretations.*

INTRODUCTION

We live in a world where privacy is an essential part of our lives nowadays. Everyone needs some sort of privacy in their life, whether it is personal privacy, financial privacy, Health privacy, National Security privacy or the Ethnic privacy. Earlier in India, there was no such concept of privacy for citizens of the country, but now it has evolved into various dimensions as stated above. At first, let's understand what privacy means: As per the Cambridge University Dictionary,¹ Privacy stands for someone's right to keep their personal matters and relationships secret, or the state of being alone. In simple words, we can say that privacy means keeping our personal information secret from others. The concept of privacy has evolved from various judicial interpretations or cases in India. The roots of the concept of privacy are rooted in our laws, statutes, and various legislation.

When the Constitution of India was adopted, several rights were made for the citizens; some of them were termed as the fundamental rights, which are 6 in number and which are the core rights for the citizens of the country and upon their infringement, a penalty can be imposed for the same. Another is the legal rights, which are basic rights of the citizens which can be taken away by the concerned authority, as laws can be changed or amended by the government. Earlier, privacy was considered a legal right, which could be taken away at any time from the citizens, but the whole scenario changed over time.

In the year 1954, a case was filed named *M.P Sharma and others v Satish Chandra*, stating right to privacy should be considered as a fundamental right under Article 21, i.e. The Right to life. From the filing of this case, the whole scenario of privacy changed as the question arose whether it should be considered as a fundamental right or not. However, in the judgment given by the Supreme Court through the 8-Judge bench held that the right to privacy is not a fundamental right. This case was the 1st case relating to the right to privacy as a fundamental right in India. However, another case was filed in the court after a decade from the *M.P Sharma's* case, named *Kharak Singh v State of Uttar Pradesh*, in which the same issue was raised as whether the right

¹ *Cambridge Dictionary* (18th edn, CUP 2024)

to privacy should be considered as a fundamental right under Article 21 of the Constitution or not? While giving the judgment in this case, there existed a dissenting opinion of judges as the bench consisted of 6 judges, among whom the ratio of the judgment went to 6:1. One dissenting opinion existed as Justice Syed Jaffer Subbarao stated that the surveillance done by the respondent amounted to an unwarranted interference with personal liberty and freedom. He further stated that such practices were incompatible with the guarantees under the Constitution, and they violated the right to privacy that should be an intrinsic part of the right to life.² However, in this case, the right to privacy was not considered a fundamental right.

After this case, several other cases came into the light back-to-back, which talked about the evolution of the right to privacy and giving it the recognition of a fundamental right. Such as the *Govind v State of Madhya Pradesh* (1975), *Mr X v Hospital Z*, *People's Union of Civil Liberties (PUCL) v Union of India* (1996), *Ram Jeth Malani and others v Union of India*, etc. In the case of *PUCL v Union of India*, the Supreme Court recognised that the right to privacy is implicit in the Right to life and personal liberty guaranteed under Article 21 of the Indian Constitution.³

In the year 2017, the judgment given by a 9-judge bench, the Supreme Court finally recognised the right to privacy as a fundamental right guaranteed under Article 21 of the Indian Constitution, and the case in which the judgment was given was filed by the retired Chief Justice of Madras High Court, and the case is named as the “Justice K.S. Puttaswamy v Union of India”⁴ in which the constitutional validity of the Aadhaar scheme was challenged.

MEANING OF PRIVACY AND JUDICIAL INTERPRETATION

As per the Cambridge University Dictionary,⁵ privacy stands for someone's right to keep their personal matters and relationships secret, or the state of being alone. In simple words, we can say that privacy means keeping our personal information secret from others. If we see the definition of privacy through the perspective of law, privacy is the right to be free from any type of intrusion or interference, and to have control over how our personal information is used.

² *Kharak Singh v State of Uttar Pradesh and Ors* (1963) AIR 1295

³ *People's Union for Civil Liberties v Union of India and Anr* (1997) 1 SCC 301

⁴ *Justice K S Puttaswamy (Retd) and Anr v Union of India and Ors* (2017) 10 SCC 1

⁵ *Cambridge Dictionary* (18th edn, CUP 2024)

There are various elements of privacy, such as security, awareness and data protection. These three elements are further categorised into different parts.

Judicial interpretation stands for the art or process of determining the intended meaning of a written document, such as a constitution, statute, contract, deed, or will. In simple words, it is an explanation of how the judiciary interprets the law. In the common law, judicial interpretation is made up of guidelines that come from case law rather than from a legislature. These represent all previous judicial decisions.

JUDICIAL INTERPRETATION OF PRIVACY RIGHTS IN INDIA: A HISTORICAL OVERVIEW

To understand the historical overview of the privacy rights in India, first, we need to look at the time when the drafting of the Indian Constitution was being done. When the Constitution was being drafted, several committees were formed for the drafting of the Constitution. One of the main committees formed was;

The Advisory Committee on Fundamental Rights: This body was considered the key body in the process of drafting the constitution. The main task of this committee was to suggest rights which can be included in the fundamental rights. Several rights were accepted and rejected depending on the needs of the citizens. The committee included several influential members like K.M. Munshi, Harman Singh, Dr B.R. Ambedkar, B.N Rau, Alladi Krishnaswamy Ayyar, etc. After some time, a proposal arose for the consideration of privacy rights as a fundamental right. Among the members of this committee, several of them supported the idea of considering privacy as a fundamental right, but many of them rejected this idea of giving it recognition under Part 3 of the Indian Constitution. K.M. Munshi, a prominent member of the constituent assembly, was one of the advocates for privacy rights. He was of the view that the privacy rights should be added to the constitution, emphasising the importance of protecting individuals from unwarranted interference by the state or other authorities. Harman Singh also supported the idea of adding the right of privacy in the constitution, stating that it should cover personal privacy, the sanctity of homes and protection against unreasonable searches. Dr B.R. Ambedkar was also a supporter of the idea of adding privacy rights in the Constitution. He particularly focused on protection against arbitrary searches and seizures. He emphasised the need for individuals to be secure in their personal and private matters, free from unwarranted

interference by the state. Dr Ambedkar supported the idea that constitutional protections should ensure that no one's personal space or private affairs could be disturbed without proper legal procedures and a valid reason. B. N. Rau and Alladi Krishnaswamy Ayyar were against the idea of adding the right to privacy in the Constitution. B. N. Rau stated that protecting privacy through the Constitution could seriously affect the investigative powers of the police. He argued that if the Constitution required a court warrant for every search or seizure, it could complicate the police's ability to investigate crimes effectively. Alladi Krishnaswamy Ayyar shared a similar opinion to B. N. Rau, who further stated that unrestricted police powers were crucial for investigations, particularly in situations where speed and efficiency were required. After several discussions, the constituent assembly was not able to reach a proper solution on the idea of right to privacy in the constitution; the final decision came as the right to privacy was not included in the final version of the fundamental rights chapter in the constitution.

M.P. Sharma and others v Satish Chandra:⁶ This case was overruled by the later judgment given in 2017 in *K.S. Puttaswamy v Union of India*. This case is considered one of the first judgments related to privacy rights in India. The facts of the case are stated as follows: A company went into liquidation, and the government of India ordered an investigation against the company, as they had a doubt that the company attempted to embezzle the funds and had concealed the truth from the shareholders by filing false accounts. An FIR was filed for the same, and an application for search and seizure was issued against the petitioner. The search was conducted at the office of the petitioner against the will of the petitioner, and the petitioner filed a petition for the same in the Supreme Court to quash the search warrant as it was violative of Article 19 (1) (f) and Article 20(3) of the Constitution. The issue raised was whether the power to search and seize materials granted by the CrPC was violative of Article 19(1)(f) and Article 20(3) of the Constitution? After hearing the case from both sides, an 8-member bench of the court decided by rejecting the contention of the petitioner that the search and seizure was a substitute for a summons, and the state's power to affect searches and seizures was constitutional. The court held that the Right to Privacy was not explicitly guaranteed under the Indian Constitution at that time. The court reasoned that privacy was not considered an inherent right under the fundamental rights provided in the Constitution, especially under Article 21.

⁶ *M P Sharma and Ors v Satish Chandra, District Magistrate, Delhi and Ors (1954) AIR 300*

Kharak Singh v State of Uttar Pradesh and Ors:⁷ This case is the case relating to the right to privacy as a fundamental right in India. This case holds a divided opinion of majority and minority as 2:1 on the 6-judge bench, as 4 judges gave the judgment against the idea of right to privacy being added to the fundamental right, and the other 2 gave the opinion that the right to privacy was an essential ingredient of personal liberty under Article 21. However, this case was the first case which recognized the right to privacy in any form. The facts of the case are stated as follows: the petitioner was released on bail by the Uttar Pradesh police on investigation of Dacoity. Upon release, the Uttar Pradesh police also opened a charge sheet against him and kept surveillance on him all the time as per the Uttar Pradesh Police Regulation rule 236. The petitioner filed a petition for the same, challenging the constitutionality of the said rule of the said act. The issue was raised whether “surveillance” under the impugned Chapter 20 of U.P. Police Regulations constituted an infringement of fundamental rights guaranteed by Part III of the Constitution? After hearing both parties, the court held that the regulation under the said act was not legislative in nature as it did not have any statutory basis and struck down the said provision and stated that it was not violative of article 19(1)(d) and further stated that “the right of privacy is not a guaranteed right under our Constitution”. However, the minority opinion was of the view that although the constitution does not expressly declare the right to privacy as a fundamental right, it is an essential ingredient of personal liberty. The majority held the said provision unconstitutional, but also declared that the right to privacy is not a fundamental right enshrined in the Indian Constitution.

Govind v State of Madhya Pradesh and Ors:⁸ This case is almost similar to the Kharak Singh case, the fact of this case are stated as; as the petitioner was deemed to be a habitual offender based on the several criminal case filed against him, due to which charge sheet was opened against him and a consistent surveillance was done on him and he was frequently called upon to the police station for domiciliary visit and the police also kept an eye on his residence and even was harassed by the police. The police got these powers from rules 856 & 855 of the Madhya Pradesh Police Regulations, and the petitioner filed the petition challenging these regulations. The issue raised was whether Regulations 855 and 856 of the Madhya Pradesh Police Regulations were unconstitutional. After hearing both parties, the court held that the act

⁷ *Kharak Singh v State of Uttar Pradesh and Ors* (1963) AIR 1295

⁸ *Govind v State of Madhya Pradesh & Anr* (1975) AIR 1378

done by the police was valid as it was done to prevent further commission of the offence and dismissed the petition. The court also stated that the domiciliary visit does not amount to an unreasonable restriction on the petitioner's privacy. The court further observed that the right to privacy is enshrined in summing the right to privacy was enshrined in article 21; it could only be restricted by a procedure established by law, and the regulation stated above was a force of law.

T. Sareetha v T. Venkata Subbaiah:⁹ This case is the first Indian case that recognised the right to privacy in marriage and individual autonomy in marital relationships. The facts of the case are stated as follows: both the petitioner and the respondent were a married couple, soon after their marriage, they got separated, and the petitioner moved away from the respondent. The husband filed a case under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights. The wife challenges the constitutional validity of section 9 of the said act, stating that it violates the fundamental rights under articles 14 and 21 (right to personal liberty). The issue raised is whether Section 9 of the Hindu Marriage Act, 1955, which allows courts to order restitution of conjugal rights, violates Articles 14 and 21 of the Constitution? After hearing both parties, the court struck down section 9 of the said act as unconstitutional, holding that it violates Article 21, as forcing any person to cohabit with their spouse against their will is an invasion of personal liberty and privacy. This judgment was further overruled, which upheld the validity of section 9 of the said act.

People's Union of Civil Liberties (PUCL) v Union of India and Ors:¹⁰ In this case, the right to privacy got recognition under Article 21 of the Constitution, but was not considered a fundamental right. The facts of the case are; the petitioner (PUCL), a voluntary organization filed a public interest litigation challenging the constitutional validity of section 5(2) of the act which allowed the central government or state government to intercept messages if it is necessary on various grounds including sovereignty and integrity of India, friendly relations with foreign states and public order for public emergency or for the public safety. The petitioner filed a PIL challenging the government's widespread practice of telephone tapping. The petition was filed in response to concerns about arbitrary and unauthorised surveillance violating citizens' fundamental rights. PUCL argued that telephone tapping without proper safeguards violated the right to privacy, which is a part of Article 21 (Right to Life and Personal Liberty) of the Indian

⁹ *T Sareetha v T Venkata Subbaiah* (1983) 2 DMC 172

¹⁰ *People's Union for Civil Liberties v Union of India and Anr* (1997) 1 SCC 301

Constitution. The issue raised in the case was whether telephone tapping violates Article 21 (Right to Life and Personal Liberty) and Article 19(1)(a) (Freedom of Speech and Expression). After hearing both parties, the court held that the telephone tapping was a serious invasion of privacy and it violated Article 21 unless it was permitted under a procedure established by law. Further, the court laid down various guidelines for telephone tapping. This case strengthens the right to privacy in India and even sets strict guidelines for government surveillance and telephone tapping.

Mr X v Hospital Z 1999:¹¹ This case is related to one of the dimensions of privacy, i.e. the health privacy. The facts of the case are: the appellant (Mr X) was engaged and was going to be married soon. As the appellant was a surgeon, he was asked to donate blood for a patient with the same blood group as his. Before donating the blood, various tests were done to check whether the person had any disease or not; the same was done with the appellant. In the test report, it was found that the appellant has HIV (+). The doctors disclosed this information to his fiancée, due to which their marriage was called off, and the news spread across his family and community, which forced him to leave his hometown. The appellant approached the NCDRC to seek damages against the respondent for illegally disclosing information about his HIV (+) which was to be kept confidential. The NCDRC dismissed the petition, and the appellant approached the civil court for a remedy. The issue raised in the question was whether the Respondent violated the Appellant's right to privacy under Article 21 of the Constitution, as well as the duty to maintain confidentiality as per medical ethics. After hearing both parties, the court held that the right to privacy is not an absolute and can be restricted to protect another person's right to life under Article 21. The court further stated that in situations where one person's health condition poses a potential risk to another person's life, public interest overrides the right to privacy. The hospital was justified in disclosing Mr X's HIV status to his fiancée to protect her right to life. The court further stated that medical professionals are generally bound to maintain confidentiality, but in cases like communicable diseases like HIV/AIDS, the right to protect another person's life becomes a higher priority. The court also observed that Mr X's right to marry was not absolute and could be curtailed if it endangered the life of another person.

¹¹ *Mr X v Hospital Z* (1998) 8 SCC 296

Ram Jethmalani and others v Union of India and Ors:¹² This case was filed by the eminent lawyer and former Union Law Minister, Ram Jethmalani, along with others, who filed a public interest litigation before the Supreme Court seeking the disclosure of names of those Indian citizens who had hidden black money in foreign banks. The petition further alleged that the government was not taking proper measures for the investigation into the same or to bring that money back to the country. The petitioner stated that the presence of black money affects the country's economy and is linked with corruption and illegal activities. The issue raised in this case was whether the public disclosure of the names of individuals who are holding the black money abroad violates the right to privacy of individuals under Article 21 or not. The petitioners argued and demanded that the names of all the individuals who are holding the black money abroad shall be disclosed. However, the government argued that disclosing that information without proper proof would violate the right to privacy of individuals under Article 21 of the Constitution. After hearing both parties, the court made significant observations regarding privacy rights in the context of black money and public disclosure. The court further stated the right to privacy is an essential aspect of the right to life and personal liberty under Article 21 and further emphasised the view that individuals have a legitimate expectation of privacy with respect to their financial and personal information until and unless they are proven guilty of their wrongdoings.

In Re Ramlila Maidan Incident:¹³ This case is the Suo Moto cognisance taken by the Supreme Court. The facts of the case are stated as Baba Ramdev took the permission from the government stating that a yoga camp will be held in the Ramlila Maidan but the real reason was something else, he wanted to do a campaign against the government's inaction against black money and decided to go on a fast to protest against the same, the real reason was announced later by Baba Ramdev after taking the permission. Approximately 50,000 people became part of this protest, and at about 11:30 pm, a team of police personnel informed Baba Ramdev that the permission to hold the camp had been withdrawn and he would be detained. Around 12:30 am, the Delhi police, CRPF, and the Rapid Action Force were deployed to break the protest and arrest Baba Ramdev. For the same reason, the forces used water cannons, tear gas and batons on the protestors to stop the protest. The issue was raised whether the imposition of Section 144 of the

¹² *Ram Jethmalani and Ors v Union of India and Ors* (2011) 8 SCC 1

¹³ *In Re-Ramlila Maidan Incident Dt 4/5.06.2011 v Home Secretary, Union of India and Ors* (2012) 5 SCC 1

Code of Criminal Procedure, 1973 (CrPC) at the rally violated the right to free speech and expression, the right to assembly, the right to life, and the right to privacy as protected under Article 19 and Article 21. Arguments done by both parties and the Delhi Police clarified that the permission given was related to holding a yoga camp, not a hunger strike. In respect of the right to privacy, the court commented that the right to privacy held by the sleeping individuals should be protected by the Constitution. The court further stated that the right to privacy, which is an integral part of Article 21 of the Constitution, and that there could be no illegitimate intrusion into the privacy of a person. The right of privacy and the right to sleep are fundamental rights like the right to breathe, to eat, to drink, to blink, etc. In this case, it could be established that the people in the ground had not been served adequate notice or asked to leave the place. The act of the Police in ordering evacuation at a time when most people were asleep was unlawful and violated the basic human rights of the crowd to sleep, which was also a constitutional freedom, under Article 21.

Justice K.S. Puttaswamy and another v Union of India and Ors:¹⁴ This case is considered the landmark judgment on the right to privacy in India. The court held that the right to privacy is an integral to freedoms guaranteed by the fundamental rights, and is an intrinsic aspect of dignity, autonomy and liberty. The fact of the case is, in the year 2012, Justice K.S. Puttaswamy, a former high court judge, filed a public interest litigation (PIL) challenging the constitutionality of the Aadhaar scheme introduced by the government. The Aadhaar scheme contained biometric and demographic data of individuals, which is violative of the individual's privacy rights. The government contended that the Constitution does not explicitly guarantee the right to privacy and that the collection of data was necessary for effective governance. The issue was raised whether the Right to Privacy is a Fundamental Right under Article 21 (Right to Life and Personal Liberty) of the Constitution of India? After hearing both parties, the court held that the right to privacy is a fundamental right. The court further stated that the right to privacy is protected under Article 21 of the Constitution as an intrinsic part of the right to life and personal liberty. It also held that privacy includes personal autonomy, bodily integrity, and control over personal information. With this judgment, the court overruled various previous judgments like *M.P Sharma v Satish Chandra*, *Kharak Singh v State of Uttar Pradesh*, where it was held that privacy was not a fundamental right. The court also acknowledged the growing

¹⁴ *Justice K S Puttaswamy (Retd) and Anr v Union of India and Ors* (2017) 10 SCC 1

concern over data protection in the digital age. This case emphasised that the state cannot collect personal data of individuals without sufficient legal safeguards. It set a strong precedent for data protection, informational privacy, and personal liberty, thereby limiting unlawful State surveillance and safeguarding individual autonomy in India.

CONCLUSION

If we look into the historical overview of privacy rights in India, it all started during the drafting of the Constitution. The committees formed for the drafting of the constitution laid several arguments on the point of whether these privacy rights should be included in the fundamental rights or not. After the drafting of the constitution, as the right to privacy was not added as a fundamental right, several cases arose which questioned the validity of the right to privacy. The first case relating to the right to privacy was the M.P. Sharma case, in which the right to privacy was not considered a fundamental right, but later overruled through the judgment of the K.S. Puttaswamy case in the year 2017.

Another case was filed after a decade ago from the M.P. Sharma's case; in this case also the question was same, but the judgment varied as in this case the bench had a divided opinion as some of were view that it should not be considered as the fundamental right, however the dissented opinion also existed as some of them gave the opinion that it should be considered as the fundamental right but this was also overruled by the judgment of 2017.

Apart from these cases, several other cases were filed regarding the constitutionality of the right to privacy. These cases laid a path for the growth of privacy rights in India, and it continues to grow depending upon the nation's development. The journey of privacy rights has come a long way, and it will continue to grow depending on the new digital world. These judicial interpretations of privacy rights laid the foundation of various regulations and statutes relating to digital data and personal information.