

EDITORIAL ANALYSIS → 19 SEPTEMBER 2023 → THE INDIAN EXPRESS:

Status of Privacy in India:

• Current Situation:

- The Digital Personal Data Protection Act was recently passed by both chambers of Parliament in India after more than five years of debate and multiple revisions.
- The Supreme Court (SC) reiterated the right to privacy and emphasised the necessity for a specific data protection statute in its *K S Puttaswamy v. Union of India* decision.

• Meaning of the ruling in *K S Puttaswamy v. Union of India*:

- The *Puttaswamy* judgement, which held that the right to privacy was a crucial component of the fundamental rights guaranteed by the Indian Constitution, served as the cornerstone of privacy law in the nation.
- The Court provided a broad interpretation of the right to privacy in six different rulings.
- The Court interpreted privacy as including the body and intellect, enabling us to make our own decisions, and being closely related to human dignity and autonomy rather than as a limited protection against physical intrusion.
- This concept of privacy acknowledges its significance in our day-to-day activities. Our ability to make meaningful decisions about our sexual and reproductive health, partner preferences, and control over personal information is made possible by our privacy.

• How has the SC's right to privacy changed over time?

- For the purpose of bolstering the foundation of constitutional rights, the SC has looked at the concepts of autonomy, dignity, and identity in respect to privacy.
- For instance, it relied on the right to privacy associated with freedom of expression, equality, and non-discrimination to decriminalise all sexual encounters between consenting adults, including those between adults of the same sex.

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- The higher court has often upheld people's freedom to wed outside of their religion and caste, tying such freedoms to autonomy and self-recognition.
- It decriminalised adultery on the grounds of promoting sexual liberty and privacy as well as against excessive government interference in people's marital lives.
- The right to a dignified death was reiterated by the Court, which also looked at the importance of privacy in the context of end-of-life care. The SC has thought about and broadened the scope of the right to privacy since Puttaswamy.
- **Digital domain privacy rights:**
- It gave more complex interpretations of the right to privacy, particularly in cases involving the right to be forgotten, which allows people to request that some information about them be erased from public records.
- Intimate photographs of people that were shared without their consent have been removed on the basis of privacy as well as other justifications.
- High courts have used Puttaswamy as a reference point to define the restrictions on the investigative authorities' ability to conduct surveillance, searches, and seizures, as well as DNA testing.
- **The right to privacy, however, is not unqualified:**
- Although the SC has occasionally limited this right, the right to privacy hasn't always won out.
- For instance, in a divided decision, the Court restricted women's ability to wear the hijab in educational settings and reduced the right to privacy in public venues. A larger bench will now be assigned to hear the case.
- The Court has also made the decision to reevaluate its decision in the Sabarimala case, which overturned the traditional ban on women between the ages of 10 and 50 entering the Sabarimala shrine.
- **Moving ahead:**
- The Court will also have to make decisions during the next years about other crucial matters that will affect how the country's fundamental rights and freedoms develop.
- It will have to make a decision about the ongoing case involving the State's alleged use of the Pegasus suite of malware against Indian residents, for example, and it will issue its ruling regarding the right to marry for members of the LGBTQIA+ community.

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- The Digital Personal Data Protection Act's controversial aspects are also likely to be challenged soon, and the court will be asked to interpret the law's terms as it is applied.
- **Conclusion:**
- Puttaswamy, the Court has continuously developed jurisprudence that has broadened the scope of the right to privacy and it should keep doing so to enable people to exercise their rights and freedoms in India more successfully.



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