CHAPTER-IV
CHAPTER-IV

DEVELOPMENT OF PRIVACY LAW: NATIONAL PERSPECTIVE

4.1 An Overview

4.2 Privacy under Indian Constitution

4.3 Privacy under Other Statutes

4.4 Recapitulation
4.1 An Overview

For human life, values are essential; isolate these values living life become meaningless. Among values which a man cherishes the most important one are rights, which he can enjoy as an individual. Man has some natural rights, which are because he is a human being. In the recorded history of mankind, man has fought for these rights whenever they have been challenged and exploited.

The American Declaration of Independence in 1776 include certain inalienable rights, i.e., the right of life, liberty and pursuit or happiness. The French Declaration on Rights of man in 1789 which came in the wake of the French Revolution and resulted in the overthrow of King Louis XVI, confirmed the inalienable rights of liberty, property, security and resistance to oppression. Since then, there has been increasingly recognition of some natural and inalienable liberties of man which he can not arbitrarily be denied of even in extreme times and this process continued on the national level. Indian leaders were committed to some basic rights for the people. The Swaraj Bill of India, 1895 spoke about freedom of speech, right to privacy and equality, right of franchise and punishment for specific offence only.

The makers of the Indian constitution preferred the American pattern of incorporating the Bill of Rights in the constitution and including a number of human rights and civil liberties in part III of the constitution dealing with fundamental rights.

In India, the right to privacy is not a specific fundamental right but has gained constitutional recognition. The right to privacy in India has derived itself from essentially two sources: the common law of torts and the constitutional law. In common law, a private action for damages for unlawful invasion of privacy is maintainable. The printer and publisher of a journal, magazine or book are liable in damages if they publish any matter concerning the private life of the individual with out such person's consent. There are two exceptions to this rule: first, that the right to privacy does not survive once the publication is a matter of public record and, second, when the publication
relates to the discharge of the official duties of a public servant, an action is not maintainable unless the publication is proved to be false, malicious or is in reckless disregard for truth.

Article 21 of the Constitution of India grants the right to privacy to the citizens & non-citizens. This is not clearly pointed out in it, but the Supreme Court has articulated the same by way of judicial explanation.

India is a party to the International Covenant on Civil and Political Rights, 1966. Article 17 of the ICCPR, grants for the "right of privacy". This Article does not go converse to any part of our public law. Article 21 of the Indian constitution has, consequently to be read in compliance with the international law.

In Kharak Singh v State of UP\(^5\), Mr. Justice Subba Rao, while stating the minority view, put down the basics for the progress of law of privacy in India and observed that the concept of "liberty" in Article 21 was broad enough to include privacy.

In Govind v. State of MP\(^6\), the Supreme Court examined that "right to privacy" must include and shelter the personal relationship of the home, the family, marriage, motherhood, reproduction and child bearing.

In R. Rajagopal v. State of TN\(^7\), the Supreme Court apprehended that the right to privacy is a "right to be let alone". None can make public anything relating to the above issues without his consent, whether honest or else and whether congratulatory or vital. If he does so, he would be infringing the right to privacy of the person concerned and would be accountable in an action for compensation.

In P.U.C.L. v. Union of India\(^8\), the Supreme Court apprehended that the right to hold a telephone conversation in the privacy of individual’s home or office with no interference could certainly be argued as right to privacy. Telephone tapping would, thus, contravene Article 21 of the Constitution of India.

In Mr. X v. Hospital Z\(^9\), the Supreme Court apprehended that the right to privacy, apart from contract, also arises out of a meticulous particular
affiliation, which may be commercial, matrimonial or even political. Public revelation of even true personal data may amount to an attack on the right to privacy.

There is also a right of individual privacy in Indian law unlawful assaults on the status and name of a person can invite an action in tort or in criminal law. The Public Financial Institutions Act of 1993 codifies India's custom of maintaining privacy in bank transactions.

In the present chapter researcher is trying to discuss Development of Privacy law in National perspective and tried to find out the answer whether right to privacy is a constitutional right provided under fundamental rights?

**4.2 Right to Privacy under Indian Constitution**

Under the Indian Constitutional law, the right to privacy is implicit in the fundamental right to life and liberty guaranteed by Article 21 of the Constitution. This has been interpreted to include the right to be let alone.

The constitutional right to privacy flowing from Article 21 must however, be read together with the constitutional right to publish any matter of public interest, subject to reasonable restrictions.

Article 21 of the Constitution of India providing for protection of life and personal liberty is one of the shortest Article in our constitution, over which there took place one of the longest and most detailed discussion in the Constituent Assembly.

Article 21 of the Constitution reads as follows:

“No person shall be deprived of his life or personal liberty except according to procedure established by law.”

Article 21 is the vanguard of the liberty of Indian people. In this Article the words “procedure established by law” is the matter of controversy since the enactment of the Indian constitution. The correct approach which is required is that the meaning of the procedure established by law though different in its structural aspect is not very different in the sphere of personal liberty from that of the due process clause of the 5th Amendment of American Constitution.
Moreover this is very much in consonance with the sentiments of the framers and also in harmony with the letters of constitution.

It is known fact that American expression of ‘due process’ has been deliberately deleted from the original text of the drafting committee. The intention of the framers was to secure the liberty by due process. The fundamental rights sub committee in its reports includes this clause in the classic form. The constituent assembly was faced with the dilemma of two conflicting views on the one hand, the principles of abstract Justice and the desire of all good men to be just and fair and on the other the need to solve the pressing problems of social reform and state security to advance the public goods.

During the Assembly debates the supporter of the due process attacked it on the floor of the house. Dr. Ambedkar explained the implication of including due process in the constitution and then left the house to decide it in anyway it linked, even the suggestion to replace it by Irish version of ‘save in accordance with law’ was rejected so all the Amendments were defeated and the draft Article 15(Article 21 of the Constitution) with out the due process clause was confirmed as part of the draft constitution. Public reaction was sharp and bitter “no part of our draft constitution said Dr. Ambedkar has been so violently criticized by the public outside as Article 15 (now Article 21 of the constitution) Dr. Ambedkar further said “a large part of the house including myself was greatly dissatisfied with the wordings of Article 21.” He introduced a new Article 15A(now 22 of the constitution) and said that by introducing this Article if I may say so, making compensation for what was done than in passing Article 15(21). The new Article he hoped “certainly saves a great deal which has been lost by the non-introduction of the words due process of law”. He said that “those who are fighting for the protection of individual freedom ought to congratulate themselves that it has been possible to introduce this clause”. This argument of Dr. Ambedkar is very crucial in substantial meaning to the ‘procedure established by law’.
Draft Article 15 evoked a keen controversy regarding the respective merits of the expression “due process of law” and “procedure established by law” when it came up for consideration in the Constituent Assembly on Dec. 6, 1948. There were about 20 Amendments most of them seeking to replace the latter by the former or a similar expression. Almost the entire debate hinged on this controversy with all speakers including Munshi favouring the restoration of the expression on “due process of law”. Syed Karimuddin and Mehboob Ali Baig pointed out that the use of the phrase “procedure established by law” stripped a court of the power to go into merits and demerits of the ground on which a person was deprived of his life or liberty. A court not to look into the injustice of any law or of a capricious provision in any law since its function would cease the moments it was satisfied that the “procedure established by law” has been complied with.

Raising his lone voice in support of the retention of the expression “procedure established by law” as against the due process provision Alladi Krishnaswami Ayyar argued that the verdict of three or five gentlemen, sitting in a Court of law on what exactly was the “due process” according to them in a particular case could not be regarded as more democratic than the expressed wishes of the legislature or the action of an executive responsible to the legislature. After such a long debate finally the present expression “procedure established by law” was adopted.

Mr. Kazi Syed Karimuddin had proposed addition of a clause to the Draft Article 14 (now Article 20) which was intended to serve the purpose of the rights of privacy. The resolution provided: “The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated and no warrant shall issue except upon probable cause supported by Oath or affirmation and particularly describing the place to be searched and the persons or things to be seized.”

Though there was nothing novel in Karimuddin’s suggestion, as the CrPC being the law of the land contained such procedural safeguard, yet Dr. Ambedkar, as the Chairman of the Drafting Committee, has expressed his
concurrence to the desirability of its incorporation. But the Constituent Assembly after a postponement of this question, issue a party whip and calls for division, voted against the adoption of the Karimuddin’s resolution.\textsuperscript{13} There upon the right to privacy akin to the Fourth Amendment was denied, the Constitution guaranteed the second right akin to the 5\textsuperscript{th} Amendment i.e. right against self incrimination in clause (3) of Article 20 of the Constitution. Therefore the right of privacy against the arbitrary arrest, search and seizure of a person by the police or by any agency of the state having similarity with the 4\textsuperscript{th} Amendment could not become part and parcel of the person’s fundamental rights. Therefore the Constituent Assembly has failed to rise the occasion.

- \textbf{Right to Privacy and Human Dignity}

“Every person has inalienable dignity, duties, and rights. Whatever social class one belongs to, every person is endowed not only with a living body but with an intelligent free and immortal soul which God created. Having come from God, this soul should serve God and return to God whether this soul lives in the body of a worker at the bottom of a dark Coal mine or in the body of a well fed financier living in the lap of luxury, it doesn’t matter; in reality both have the same value. They have equal personal dignity; equal moral responsibility, the same eternal destiny and both of them have been given earthly existence so that through truth, morality and religion they strive for eternal life”\textsuperscript{14}

Dignity is a universal human concern. Its moral agenda is to attempt a double kind of evaluation of the individual community on the one hand and the entire social formation on the other.\textsuperscript{15} Today various forces challenge the basic dignity of the people all over the world. Dignity means freedom to live in peace, health and hope.\textsuperscript{16}

Privacy is the guarantor of individual moral autonomy, a basic value in a democratic system of government; privacy can be defined as the right to control one’s information system and one’s physical being. The latter right has been traditionally conceived in American society as the right to be secured against unauthorized entries and seizure. Both rights are closely related to the
principle of respect for persons. Both must be reinterpreted in the light of changing technological and social contexts. Privacy is violated whenever a person’s moral autonomy or self images are impinged upon, even without affecting his conduct. Altering an individual’s self perception against his will offends human dignity. If we are able to regulate a person’s conduct or keep it under surveillance, we are, infact, curtailing his responsibility as a moral agent making free choice to limits the option open to persons regarding relationship with others their physical mobility and their own self-perception. Privacy, the control of one’s own person and of the extension of one’s person in the form of information, is at the basis of man’s claim for human dignity.  

The Preamble of the Constitution declares:

“To constitute India in to a Sovereign, Socialist, Secular, Democratic Republic and to secure to all its citizens Justice, Social, Economic and Political; Liberty of thought, Expression, Belief, Faith and Worship; Equality of status and of opportunity; and to promote among them all fraternity assuring the dignity of the individual and the unity and integrity of the Nation”.

Human dignity Jurisprudence is the eye of law giving an insight into Supreme Court of India while interpreting the Constitution, giving it practical application in several cases.

The first decision of the Supreme Court in dealing with this aspect is Kharak Singh v. State of U.P., a more elaborate appraisal of this right took place in a later decision of the Supreme Court in Govind v. State of MP, where the Supreme Court traced the origin of the right and also pointed out how the said right has been dealt with by the United States Supreme Court in Griswold v. Connecticut and Jane Roe v. Henrywade, the Supreme Court observed that privacy-dignity claims deserve to be examined with care and to be denied only when an important countervailing interest is shown to be superior. If the court does find that a claimed right is entitled to protection as a fundamental privacy right, the law infringing it must satisfy the compelling state interest test. Privacy primarily concern individual. It is therefore relates to and overlaps with the concept of liberty.
In *Air India Statutory corporation v. United Labour Union*\(^23\), the Court observed that dignity of person is a corner stone of social democracy. While defining social justice. The Court held:

"The concept of ‘Social justice’ consist of diverse Principles essential for the orderly growth and development of personality of every citizen. “Social Justice” is then an integral part of justice in the generic sense. Justice is the genus, of which social justice is one of its species. Social Justice is a dynamic devise to mitigate the sufferings of the poor, weak, dalits tribals and deprived sections of the society and so elevate them to the level of equality to live a life with dignity of person.”

"The Constitution commands Justice, Liberty, equality and fraternity as Supreme values to usher in the egalitarian social, economic and political democracy. Social justice, equality and dignity of person are corner stone of social democracy.”

In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*\(^24\), the Supreme Court held that right to life includes the right to live with human dignity. The Court observed:

"The right to life enshrined in Article 21 can not be restricted to mere animal existence. It means something much more than just physical survival. The right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessaries of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and mingling with fellow human beings. Of course, the magnitude and content of the components of this right would depend upon the extent of the economic development of the country, but it must, in any view of the matter, include the right to the basic necessities of life and also the right to carry on such functions and activities as constitute the bare minimum expression of the humanself.”
“Every act which offends against or impairs human dignity would constitute deprivation protanto of the right to live and it would have to be in accordance with reasonable fair and just procedure established by law which stands the test of other fundamental rights.”

In Kishor Singh Ravinder Dev v. State of Rajasthan, the Court explained the importance and scope of human dignity in the following words:

“Human dignity is a dear value of our constitution not to be bartered away for mere apprehensions entertained by jail officials. It is obvious that poverty is a curse inflicted on large masses of people by our malfunctioning socio-economic structure and it has the disastrous effect of corroding the soul and shaping the moral fiber of a human being by robbing him of all basic human dignity and destroying in him the higher values and the finer susceptibilities which go to make up this wonderful creation of God upon earth, namely man.”

In Bachan Singh v. State of Punjab, the Court observed:

“Now obviously any form of torture or cruel, inhuman or degrading treatment would be offensive to human and constitute an inroad in to his right to live and it would, on this view, be prohibited by Article 21 unless it is in accordance with procedure prescribed by law.”

In Mohini Jain v. State of Karnataka, the Supreme Court observed that:

“It is primarily the education which brings forth the dignity of a man. Right to education flows directly from the right to life. The right to life under Article 21 and the dignity of an individual cannot be assured unless it is accompanied by the right to education. The fundamental right guaranteed under part III of the Constitution including the freedom of speech and expression and other rights under Article 19 can not be appreciated and fully enjoyed unless a citizen is educated and is conscious of his individualistic dignity.”
In *T.K. Gopal v. State of Karnataka*\(^2\), the Supreme Court observed:

“It is a sad reflection on the attitude of indifference of the society towards the violation of human dignity of the victims of sex crimes. We must remember that a rapist not only violates the victim’s privacy and personal integrity but inevitably causes serious psychological as well as physical harm in the process. Rape is not merely a physical assault. It is often destructive of the whole personality of the victim. A murderer destroys the physical body of the victim a rapist degrades the very soul of the helpless female”

In *Kunjilal Lodhi v. SMT Lata Bai Lodhi*\(^3\), Court observed that:

“Seeking a medical examination of a lady in respect of her inability to perform an intercourse tantamount to lowering her dignity, husband is not entitled for a leave to get her examined.”

- **Right to Privacy and Personal Liberty**

Article 21 of the Constitutions reads as follows:

“No person shall be deprived of his life or personal liberty except according to procedure established by law.”

The words “personal liberty” under Article 21 if interpreted widely are capable of including the rights mentioned in Article 19. But in *AK Gopalan v. State of Madras*\(^4\), the Supreme Court took a very literal view and interpreted these words very narrowly the court took the view that: Since the word “Liberty” is qualified by the word ‘personal’ which is narrower concept and therefore it does not include all that is implied in the term liberty.

This restrictive interpretation of the expression ‘personal liberty’ in *Gopalan’s* Case has not been followed by the Supreme court in its later decisions in *Kharak Singh’s* case observed that:\(^5\)

“Personal liberty was not only limited to bodily restraint or confinement to prisons only, but was used as a compendious term including with in itself all the varieties of rights which go to make up the personal liberty of a man other than those dealt with in Article 19(1). In other words, while Article 19(1) deals with

83
particular species or attributes of that freedom, ‘Personal liberty’ in Article 21 takes in and comprises the residue.”

Finally, in Maneka Gandhi v. Union of India, the Supreme Court has not only overruled Gopalan’s case but has widened the scope of the word ‘personal liberty’. Bhagwati, J observed:

“The expression personal liberty in Article 21 is of widest amplitude and it covers a variety of rights which go to constitute the personal liberty of man and some of them have raised to the status of distinct fundamental rights and given additional protection under Article 19.”

The correct way of interpreting the provisions conferring fundamental rights, the court said:

“The attempt of the Court should be to expand the reach and ambit of the fundamental rights rather than to attenuate their meaning and content by a process of judicial constructions. The court lays down great stress on the procedural safeguards. The procedure must satisfy the requirement of natural Justice i.e. it must be just, fair and reasonable.”

Whether the Constitution of India guarantees a right to privacy was raised before the Supreme Court in Govind v. State of MP. In this case petitioner claimed that the police was making domiciliary visits by day as well as during the night. They were also picketing his house and they approaches there to. Moreover they were calling and harassing and keeping a watch on him all the time. The argument of the respondents was that Govind was a dangerous criminal determined to lead a life of crime and there to be put under surveillance so as to prevent him from committing offences.

The question which arose was whether the right to privacy was implicit in the freedom of movement and whether surveillance of the said nature violated the right of privacy?

Mathew, J. after examining various foreign authorities and the Intention of constitution makers laid down that:
1. The security of an individual’s privacy against arbitrary invasion was the basis of any system of limited government; Our Constitution makers were aware of the dangers of Police Raj and absolutely rejected it. They wanted to ensure conditions favorable to one’s happiness.

2. The Individual, his personality and those things stamped with his personality shall be free from official interference except where a reasonable basis for intrusion exists. The privacy dignity claims deserve to be examined with care and to be denied only when an important countervailing interest is shown to be superior.

3. Assuming that the right to personal liberty, the right to move freely throughout the territory of India and freedom of speech and expression create an independent right to privacy which can be characterized as a fundamental right, though the right is not absolute.

4. Finally, surveillance and domiciliary visits should be resorted to only in clearest cases of danger to community security and not as a routine follow up at the end of conviction on release from prison at the whim of a police officer.

5. The impugned regulations were not unconstitutional but they must be revised by the state as they belong to bygone era and are previously close to unconstitutionality.

In a previous case *Kharak Singh v. State of U.P.*, an accused of dacoity after his release from jail, was put under surveillance due to which the Chaukidar of the village and sometimes police constables enter his house, knock and shout at his door, wake him during the night and thereby disturb his sleep. Sometimes he was compelled to go to police station to report his presence and was required to inform before leaving the village. Chapter XX of the U.P. police regulations was challenged as violative of Article 19 (1) (d) & 21. The government case was that regulations were directed only against those who were on proper grounds suspected to be of proved anti social habits and tendencies and on whom it was necessary to impose some restraints for the protection of society.
The case was heard by six judges Constitution Bench of Supreme Court. Speaking for majority Ayyangar J. highlighted the lack of provisions in India like those of 14th Amendment of American Constitution. The majority however conceded the common law maxim that “every man’s house is his castle”, and relied of SEMAYNE’S case where it was stated that “The house of every one is his castle and fortress as well as his defense against injury and violence as for his repose”. The majority however pointed out two separate zones of personal liberty enshrined under Article 19 & 21. It was held that personal liberty, used in Article 21 was a compendious term including all the varieties of rights which strengthen the personal liberty of a human being, other than those enumerated in several clauses of Article 19, Article 19 was held to include particular species of freedom of human being leaving aside Article 21.

The Court rejected the plea of petitioner that freedom of movement under Article 19(1)(d) connotes a wider freedom transcending mere physical restraints and included psychological inhibitions dealing with regulation 236 of U.P Police regulations the majority speaking through Ayyanger J upheld all the provisions except clause (b) dealing with domiciliary visits at night.

The conclusion of majority show no awareness or attempt to reconcile between the competing interest of the right to privacy and public good through surveillance over suspect characters. The court took narrow and pedantic approach that the right to privacy is not a guaranteed right under our constitution and therefore the attempt to ascertain the movement of an individual which is merely a manner in which privacy is invaded is not an infringement of a fundamental right guaranteed by part III of the constitution.

The inclusiveness and lack of privacy awareness in majority approach provoke the two judges of the Court to write a strong and forceful dissent.

Subba Rao J. with whom Shah J, Concurred did not agree with majority conclusion that the freedom to move freely is carved out of personal liberty and pointed out that both are independent fundamental rights though there is overlapping. The learned judge conceded that “our constitution does not
expressly declare a right to privacy as a fundamental right”, but forcefully argued that, the said right is an essential ingredient of personal liberty.\textsuperscript{36} 

The majority, therefore came to the conclusion that the petitioner under shadow of surveillance was deprived of his freedom to move freely and declared the entire Regulation 236 as offensive of Article 19(1)(d). Though the minority did not say in express words, but it supported the view that Article 19 enshrine the cherished right of privacy.\textsuperscript{37} “The right to be let alone”\textsuperscript{38}

In \textit{Malak Singh v. State of Punjab}\textsuperscript{39}, the Supreme Court has reiterated that:

“The police can maintain discreet surveillance over reputed bad characters, habitual offenders and other potential offenders in order to maintain public peace and prevent commission of offences. However intrusive surveillance seriously encroaching on a citizen’s privacy is not permissible under Article 19 (1) (d) and Article 21.”

In Kharak Singh case the Supreme Court ruled definitively that the right to privacy’ was not a guaranteed right in India. But in Govind case the court appears to have accepted a limited fundamental right to privacy as an emanation’ from Article 19 (1)(d) and Article 21.

The right to privacy is however, not absolute, and reasonable restrictions can be placed there in public interest under Article 19(5) the impugned police regulations were characterized as making drastic inroads directly into the privacy’ and indirectly in to the fundamental rights of the suspect and therefore, they were given a restrictive operation.

No right is absolute in nature. Two rights always contradict each other. One can enjoy his share of rights, up to the extent the rights or freedom of others is not violated. A Chinese proverb says, “We have the right to move our hand in the air, but our right ends where someone’s nose begins.”

In the same way, freedom of expression is standing on the way of right to privacy. One has the right to express, but the question that arises is what the extent of expression is? Can someone violate another’s privacy in the name of his right to express?
The importance of free speech as a basic and valuable characteristic of the society cannot be underestimated. On a practical plane, freedom of speech serves many functions. One of its most important functions is that decision-making at all levels is preceded by discussion and consideration of a representative range of views. Freedom of speech is also important to government because when criticisms of a government are freely voiced, the government has the opportunity to respond to answer unfair comments and criticisms about its actions. However, freedom of speech or expression does not mean freedom to say anything you want to, because, freedom of expression can sometimes become a threat to the privacy of others.

Privacy on the other hand, is a valuable and advanced aspect of personality. Sociologists and psychologists agree that a person has a fundamental need for privacy. Preserving privacy fosters individual autonomy, dignity, self determination and it in turn promotes a more participatory citizenry. Unwanted exposure may lead to discrimination, loss of benefits, and loss of intimacy, stigma, and embarrassment.

4.3 Right to Privacy under Other Statutes

In the Indian context although there is no specific law expressly guaranteeing a general right of privacy to individuals the Judicial decisions have established beyond any doubt that this right is included under Article 21 of the Constitution. In addition to there are some specific provisions providing for protection of privacy under different laws and provided punishment for the violation of the same.

- Privacy under Indian Easement Act, 1882

Indian Easement Act, 1882 under Section 18, provides, that an easement may be acquired by virtue of a local custom which are called customary easement. Illustration (b) to above Section more or less settles the contents of the customary right of privacy. It lays down, by the custom of a certain town no owner or occupier of a house can open a new window there in so as substantially to invade his neighbour's privacy. A build a house in the town near B's house. A there upon acquires an easement that B shall not open new
window in his house so as to command a view of the portions of A’s house which are ordinarily excluded from observation, and B acquires a like easement with respect to A’s house.\(^{42}\)

The contents of this customary right, by and large are mainly concerned and centered around the complaints regarding the construction of a new house or alteration of the old ones, opening a new door or a window or enlargement of the existing ones, construction of a new floor or balcony and opening of a new aperture or the enlargement of the old ones by the defendant where by the plaintiff’s house specially that portion of the house which is generally secluded from observation and/or inhabited by the female members of his/her family is exposed to the view of the defendant resulting in an invasion of the plaintiff’s privacy.

In 1888, the case of *Gokal Prasad v. Radho*\(^{43}\) came before a division bench of Allahabad High Court for decision.\(^{44}\) The plaintiff alleged that the defendant had wrongfully built a new house in such a way that certain eaves of that new house projected over the plaintiff’s land and that a verandah and certain doors of the house interfered with the privacy of those portions of the plaintiff’s house and premises which were occupied and used by the females of the plaintiff’s family. Accordingly he claimed to have the eaves, in question, and the verandah removed and the doors, complained of, be closed. The female member of the plaintiff’s family was Pardanashin women. The lower court declared the plaintiff’s claims with costs. On appeal, the District Judge reversed the decree of the lower court and dismissed the plaintiff’s claims. It is against the decree of the District Judge that an appeal was made and this is how the case came before the High Court. The division bench of the High Court formulated the following questions:

Does the privacy in fact and substantially exist and has it been and is it in fact enjoyed? If it were found that no privacy substantially exists or is enjoyed, there would be no further question in an ordinary case to decide. If, on the other hand, it were found that privacy did substantially exists and enjoyed, the next question would be: was that privacy substantially or materially
interfered with by acts of the defendant done without the consent or acquiescence of the person seeking relief against these acts?

Chief Justice Edge, Who delivered the judgment, arrived at the conclusion after examining various authorities that a right of privacy exists and has existed in these provinces by usage or custom and that substantial interference with such a right to privacy, where it exists, if the interference be without the consent of the owner of the dominant tenement, afford such owner a good cause of action. In his concurring judgment Justice Mahmood pointed out that under conditions of life such as they are in these provinces, the custom that invasion of privacy is actionable is far from being an unreasonable custom, and the custom itself is so well recognized that Mr. Motilal Nehru, for the respondent, in course of his argument stated that it was wholly unnecessary to remand the case for ascertaining the custom. The appeal was decreed and the lower court decree was restored.

In 1935, in Nihal Chand v. Mt. Bhagwan Devi,45 A division Bench exhaustively examined all the cases on the customary right of privacy decided after the Gokal Prasad case, and came to the conclusion that:

"The customary right of privacy was generally prevalent and commonly recognized. The court took the view that it was open to a court to take judicial notice of such custom having the force of law under Section 57, of the Evidence Act and it was therefore not necessary that there should be evidence produced in each case to establish such a custom. Indeed, in many villages where the custom had been so well recognized that no one had dared to infringe it, there might be no instance to prove that the custom was denied and upheld on previous occasion. The court also made a distinction between the right of privacy based on Pardah system and the right of privacy based on natural modesty and human morality and that the latter was not confined to any class, creed, colour or race. It was adjudged as the birth right of a human being and as such ought to be takes as sacred."
"The court further maintained that the right to privacy must be observed but should not be exercised in any oppressive way. The Court reiterated the proposition that in order to maintain a suit one need not necessarily be the owner of the premises. Even a rightful occupier would have a right to maintain the suit."

- **Privacy under Hindu Marriage Act, 1955**

  The Hindu marriage Act, 1955 Under Section 22, provides that no person shall be allowed to print or publish any matter in relation to the proceeding in camera without obtaining prior permission of the court. The discretion of the court to withhold or allow publication of the proceedings in camera is controlled by considerations of 'public policy' or for reasons connected with 'public order' or the 'security of the state' etc. if any person prints or publishes any matter in contravention of the provision contained in subsection (1) he shall be punishable with fine which may extend to one thousand rupees.⁴⁶

- **Privacy under Children Act, 1960**

  The Children Act, 1960 under Section 36, makes it punishable if any one makes any dispatch to any newspaper or magazine disclosing the name, address or school or any other particulars which may lead to the identification of the child involved in any proceeding under the Act including the publication of his photograph.⁴⁷

- **Privacy under Indian Penal Code, 1860⁴⁸**

  "Intrusion of privacy" as an offence in the Indian Penal Code, 1860 was neither imported from England nor a creation of the Lord Macaulay but only a codification of a long established tradition of the Indian people. Indian Penal Code, 1860 under Section 228A, provides whoever prints or publishes the name or any matter which make known the identity of any person against whom an offence under Sections 376, 376A, 376B, 376C or 376D is alleged or found to have been committed shall be punished with imprisonment of either description for a term why may extend to two years and shall also be liable to fine.
Section 509 of the same code provide whoever intending to insult the modesty of any woman utters any word, makes any sound or gestures or exhibits any object, intending that such word or sound shall be heard or that such gesture or object shall be seen, by such woman or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine or with both.

Another very import aspect of family life lies in the mutual confidence, rights and obligations and sexual fidelity between husband and wife. The family life is based on monogamous marriage. Extra marital sexual or other intimate relations not only entail penal and other sanctions, but any child born of an illegitimate union suffers from the consequences in the legal status. Bigamy is punishable under section 494 and 495 of Indian Penal Code under section 493, of the Indian Penal Code whoever by deceitful means causes any woman, not lawfully married to him, to believe that she is lawfully married to him and to cohabit or have sexual intercourse with her is liable for punishment. Under section 497, Indian Penal Code the crime of adultery is punishable under Section 498, Indian Penal Code anyone who takes or entices away any married woman for illicit sexual relations is also liable for punishment.

Chapter XV of the Indian Penal Code, 1860 which speaks of the offences relating to religion, presupposes the existence of the right in question. Section 295, Indian Penal Code made it punishable for an individual who intentionally insult a religion by destroying, damaging or defiling any place of worship or any object held sacred by any class of persons.

Under Section 352, Indian Penal Code, 1860 the use of criminal force to an individual has been prohibited. The force is criminal when it is used to an individual without his consent and with intention to cause injury, fear and annoyance to him. The definition of assault makes the very apprehension of the use of criminal force punishable. Consent as understood in the Indian Penal Code, 1860 is not to be given under fear of injury or under a misconception of fact, or when intoxicated or unsoundness of mind or by a person under twelve years of age.
In certain cases, consent is a defence in the criminal proceedings as well. There are certain crimes in the Penal Code, the criminality of which relates to and/or depends on the consent of an individual e.g. criminal force, causing miscarriage, rape, theft, adultery, kidnapping from India, and cheating.

The legislative intent to safeguard an individual from being annoyed and vexed is manifest in the various provisions of the Penal Code. Annoyance plays a pivotal role in the definitions of 'public nuisance', 'criminal force' and criminal trespass. In fact, nuisance and annoyance have been used almost synonymously.

An obscene Act, song or word in public place to the annoyance of amounts to a trespass for a person to enter, if one is drunk a manner as to cause annoyance to any person, he is liable to be punished.

**Privacy under Law of Torts**

Common law principles of torts do not provide direct action for invasion of privacy. The law of torts seeks to provide protection by the use of civil wrongs such as defamation, trespass and breach of confidence.

The tort of defamation involves the right of every person to have his reputation preserved inviolate. It protects an individual’s estimation in view of the society and its defenses are ‘truth’ and ‘privilege’ which protect the competing right of freedom of speech. Essentially, under the law of tort, defamation involves a balance of competing interests. The only concession for an action, which involves infringement of right to privacy, would be for reasons of prevention of crime, disorder, or protection of health and morals or protection of rights and freedom of others.

Privacy in tort may be described as the right of the person to the seclusion of himself, his family or his property. The phrase “right to privacy” is used in the Indian case law to refer to the right which an owner of a house may have under local custom to the seclusion of his inner apartments from the view of his neighbour invasion of the privacy and seclusion of a man’s premises, properly speaking is part of the law of trespass or nuisance. It has been used in
England and in United States in a very different state and refers to the right to freedom from emotional disturbance like annoyance, mental pain or distress caused by certain forms of misconduct which do not fall within one of the torts already recognized by the law. In the US, a right to privacy has been recognized in many forms of misconduct causing emotional distress. Formerly in the USA and England, emotional distress was not by itself cause of action but compensation for it could be claimed when it is accompanied with an independent tort like an invasion of the right to person, property or reputation.72

- **Privacy under Indian Contract Act, 1872**

  Indian contract Act deals certain other means by which parties may agree to regulate the collecting and use of personal information gathered, viz, by means of a ‘Privacy Clause’ or through a ‘confidentiality clause’. Accordingly, parties to a contract may agree to the use of disclosure of an individual’s personal information, with the due permission and consent of the individual, in an agreed manner and or for agreed purposes and any unauthorized disclosure of information, against the express terms of the agreement would amount to a breach of Contract under the Indian contract Act, and would invite an action for damages as a consequence of any default in observance of the terms of the contract under Section 74 of the Indian contract Act, 1872.73

  In contract for insurance, the company may solicit personal information from an individual relating to his family, cultural background, ethnic origin, caste, childhood, education, medical history, information regarding one’s immediate family, their age, profession etc. In case of data processing companies, there may be queries with regard to an individual’s professional pursuits, income, investment decisions, preferences, spending patterns and so on. Globally, contract of insurance are contracts of ‘utmost good faith’ and the contract is voidable where all material facts are not disclose clearly the terms of its offer and duly abide by them. Therefore, an insurance proposal, which contains a confidentiality clause regarding personal information provided by the customer; can not be disclosed without his prior consent. Any breach of
such term would invite an action for breach of contractual terms by the insurer-customer.

The measure of caution and care with respect to disclosure of sensitive information is higher and companies may need to ensure the explicit consent of the individual with respect to whom sensitive information is to be disclosed. Any disclosure for extraneous reasons could invite legal action from the individual claiming that the disclosure by the company resulted in such mental agony, anguish, and social stigma, which he would not have otherwise had to face.\(^\text{74}\)

- **Privacy under Criminal Procedure Code, 1973**

  The general rule is that any person having knowledge of the commission of an offence may set the law in motion by a complaint even though he is not a person injured by the offence. But in so far as the offences mentioned above (chapter XX, IPC, 1860) are concerned, no court shall take cognizance except upon a complaint made by some person aggrieved by the offence.\(^\text{75}\) Section 198 of the Criminal Procedure Code, 1973 is one of the exceptions to the general rule.\(^\text{76}\) It has further been observed that the offences referred to in the section are of private character and the object of the section is to see that it is not in the power of any and every body to drag such offences into a court of Justice.\(^\text{77}\) Section 327 of the Code of Criminal Procedure, 1973 empowers the presiding Judge or Magistrate to exclude the general public or any particular individual from any enquiry or trial of any case, at any stage, at his discretion.\(^\text{78}\) In making an arrest under Section 46 of the Code of Criminal Procedure, the police officer has been authorized actually to touch or confine the body of person arrested\(^\text{79}\), but the provision does not make it mandatory that for effecting arrest, the police officer should actually touch or confine the body of the person to be arrested before a person can be said to be taken in custody; submission to the custody by word or action is sufficient.\(^\text{80}\) Under Section 164, the Code of Criminal Procedure, in recording of confession, the Magistrate is required to explain to the person making it that he is not bound to make a confession and that if he does so, it may be used as evidence against him.\(^\text{81}\) He is further
required to satisfy himself that the confession was voluntarily made.\textsuperscript{82} The Code of criminal procedure, 1973 also permits restrictions to be imposed on the publication of reports, concerning certain legal proceeding e.g. rape trial.

- **Privacy under Indian Evidence Act, 1872**

  Indian Evidence Act, 1872 under Section 122, provides that, No person shall be compelled to disclose any communication made between husband and wife. Under Section 126 of the Evidence Act, an advocate is not permitted to disclose any communication made to him in the course and for the purpose of his employment as an advocate without the express consent of his client. The contents or condition of any document with which he has become acquainted in course of his professional employment or any advice given are also not to be disclosed by him. The obligation thus imposed on him continues even after his employment has ceased.\textsuperscript{83}

  The Interpreters and the clerk or servants of such advocates are also under the same obligation.\textsuperscript{84} Further no one is to be compelled to disclose to the court any confidential communication which has taken place between him and his professional advisor.\textsuperscript{85}

- **Privacy under Information Technology Act, 2000\textsuperscript{86}**

  In May 2000, the Government passed the Information Technology Act, 2000. The Act provides for a set of laws intended to provide comprehensive regulatory environment for electronic commerce. The Act also address the question of computer crimes, hacking, and damage to computer source code, breach of confidentiality and viewing of pornography. However, the Information Technology Act, 2000 contains some provisions which recognizes privacy protection and at the same time contains some provisions which encroach upon the privacy rights. Information Technology Act uses the word “Privacy” into sections, i.e. Section 30 and Section 72, the various Sections which recognize the privacy issues is discussed as under:

  Section 30 of the Information Technology Act, 2000 requires certifying authority to adhere to security procedures to ensure that the secrecy and privacy of the digital signatures are assured.\textsuperscript{87}
Section 43 of the Information Technology Act, 2000 makes adequate provision for the aggrieved party to seek compensation for unauthorized access to his personal/private data.\(^\text{88}\)

Section 66 of the Information Technology Act, 2000 also protects sensitive private information residing in one's computer resource as it *inter alia* makes punishable diminution in value of information residing inside a computer resource” with imprisonment up to three years. Thus when an intruder hacks into the computer system and copies and transfers the sensitive personal information to competitor which may be of very high utility or of very private nature or commercial value for the owner, the said act results in diminution in value of information residing inside a computer resource and thus violation of privacy.\(^\text{89}\)

Section 72 of the Information Technology Act, 2000 talks about breach of confidentiality and privacy i.e., a Government official can be punished if he passes an electronic information/data that he has received about an individual in his official capacity.\(^\text{90}\) This section has a limited application only. It confines itself to the acts and omissions of those persons, who have been conferred powers under this Act, rules or regulations made there under i.e. police, certifying authorities and officers authorized by specific notification.

- **Privacy under Right to Information Act, 2005**

The state in a democratic society has an obligation to disclose the information that has been generated at its level for the purpose of the people. There is no doubt that the entire information build in files of the state government office is for the people, and that entitles the people to have an implied right to access that information. It is one of the cardinal principles of administration that the officers dealing with people should be transparent and information must be accessible to the people. As the officers tend to believe themselves to be the masters of people forgetting that they have been appointed to serve the interests of the people, there is a need to declare that people have a right to information which the officers are holding with in their confines. This took the shape of a statutory right as a consequence of democratic struggles and
agitation for over decades and centuries. India recently passed a law called
Right to Information Act, 2005.

Providing for a statutory right to information and obligation on the part
of the state to provide information either in response to a request or on their
own. The Act lays down machinery for the grant of access to freedom. The
public authorities are responsible for designating public officers and Assistant
Public Information Officers within 100 days of the enactment and whose
responsibility is to deal with request for information and assist persons seeking
information.

Right to Information Act permits citizens to gain information under
government control. It might be thought to threaten the privacy of patients and
research subjects, especially those in government institutions. This Act was
designed to promote transparency in government, not to permit the invasion of
the privacy of individual who use government hospitals or who altruistically
participate in government funded research. The Act generally does not threaten
the confidentiality of the doctor patient or researcher subject relationship.

Section 8(1) of the Right to Information Act, 2005 deals with "what is
not open to disclosure", the Act says that "information which relates to
personal information the disclosure of which has no relationship to any public
activity or interest, or which would cause unwarranted invasion of the privacy
of the individuals should not be disclosed". In addition, the same section
stipulates that "Information available to a person in his fiduciary relationship"
such as the relationship of a physician or researcher with a patient or subject-
should not be disclosed" unless a competent authority is satisfied that the larger
public interest warrants the disclosure of such information.

The Act does not grant others the right to request information about an
individual that is generated within fiduciary relationship, even if the doctor or
researcher is a government employee and the medical or research record is
housed in a government institution, Unless public interests out weight the
individual's interest in the privacy of the information. Thus, the degree to
which the Right to Information Act threatens patient or subject confidentiality
depends greatly on what would count under the Act as a “public activity or interest” and as an “unwarranted invasion” of privacy. In *S.P Gupta v. Union of India*, the Court held that:

"Right to know is implicit under right to free speech and expression. In this case, the court also observed that. “The citizen’s right to know the facts, the true fact, about the administration of the country is thus one of the pillars of the democratic state.”

In *Union of India v. Association of Democratic Reforms*, the Apex Court issued certain directives to the election commission of India regarding voter’s right to know the antecedents of the elections candidate.

In *People’s Union for Civil Liberties v. Union of India*, the Court held that:

"The right to information was further elevated to the status of a human right, necessary for making governance transparent and accountable. This Act defines information under Section 21 and the term Information includes almost all forms of materials, which is under the control of any public authority. So through this wide defines, informed is now under the domain of public. They have an access to get information’s about the wanting of public authority."

**Privacy under Indian Post Office Act, 1898**

Indian post office Act 1898, Under Section 2 (i) provides that, Any body who is employed to carry and deliver the postal article (Which includes a letter, post card, news paper, book pattern or sample packet, parcel and every article or thing transmissonable by post) if found guilty of carelessness endangering the safety of postal articles, causing delay in the conveyance or delivery there of is liable for punishment. If any officer of the post office, contrary to his duty, opens any postal article in course of transmission by post or willfully detains or delays such postal articles he is liable for punishment. Detaining the mails or any postal articles or even opening the mail bag in course of transmission by
post by any person without due authority under the Indian post office Act or any other Act for the time being in force is punishable.  

- **Privacy under Credit Information Companies (Regulation) Act, 2005**

Credit Information Companies (Regulation) Act 2005, deals with the critical areas of accuracy and security of credit information there by facilitating the provision of information to the users of members of credit information companies and at the same time, provides for maintenance of privacy of the consumer. The data relating to the credit information being provided by the credit information company has to be accurate, complete and duly processed and protected against any loss or unauthorized access or use, which shall be the responsibility of the credit information company. Section 20 of the Act enumerates privacy principles which shall be applicable on the credit information company, credit institution and the specified user. The principle has been made applicable for the purpose of processing, recording, preserving and protecting the information or data. The privacy of the customer or the borrower shall extend to the purposes of the information, extent of obligation of the credit information company, preservation of credit information networking of credit information companies’ credit institutions and any other principles and procedures.


In *Board of Revenue, Madras v. R.S. Jhavar*, the Supreme Court held that:

"The power of search and seizure can be exercised by an administrative authority only when it is conferred on it by a
statute. The stipulations made by the statutes in question regulating the power of search and seizure must be observed by the authority concerned, otherwise search and seizure will be declared illegal and nothing recovered at such a search can be made use of as evidence against the individual concerned.”

In *Hari Kishan Das Gulab Das and Sons v. State of Mysore*, the Mysore High Court held that:

“When a search was committed in an illegal manner the assessee was entitled to return of all seized documents and books including any copies and notes made by the department from these materials. This decision thus amount to saying that the department cannot make use of such illegally seized material.”

- **Privacy under Copyright Act, 1957**

  Copyright, under the Copyright Act, 1957 is a right granted to creators of literacy, dramatic, musical, computer and artistic works, and producers of cinematography films and sound recordings. Copyright includes right of reproduction, communication to the public, adaptation and translation of the work.

  Copy right ensure certain minimum safeguards of the authors’ right over their creations, thereby protecting and rewarding creativity. The author of a work has the right to claim authorship of the work and to restrain or claim damages in respect of any distortion, mutilation, modification or other act in relation to the work, if such distortion, mutilation, modification or other act is prejudicial to his honour or reputation. Moral rights are available to the authors even after the economic rights are assigned (section 57).

  In *Phoolan Devi v. Shekhar Kapoor*, the plaintiff claimed that the basis of the film, being a novel dictated by the illiterate plaintiff herself had been considerably mutilated by the film producer. The plaintiff sought a restraint order against the defendant, from exhibiting publicly or privately, selling, entering into film festivals, promoting, advertising, producing in any format or medium, wholly or partially, the film “Bandit Queen” in India or elsewhere. Granting an injunction Vijendra Jain J. held that “the defendant had no right to
exhibit the film as produced violating the privacy of plaintiff’s body and person. The balance of convenience is also in favour of restraining the defendants from exhibiting the film any further as it would cause further injury to the plaintiff. No amount of money can compensate the indignities, torture, and feeling of guilt and shame which has been ascribed to the plaintiff in the film. Therefore the defendants were refrained from exhibiting the film.

4.4 Recapitulation

The Preamble to the Constitution resolves to secure to all the citizens, justice, liberty, equality of opportunity and of status assuring their dignity. It guarantees several fundamental rights to the peoples in part III. These fundamental rights, observed by the Supreme Court of India, represent the basic values cherished by the people of this country. They weave a pattern of guarantee on the basic structure of human rights and impose negative obligations on the state not to encroach on individual liberty in its various dimensions. The right to life, guaranteed under Article 21 of the Constitution, has been interpreted as the right to live with human dignity. By virtue of his dignity each individual has a right to private enclave where he may lead a free life with out any let or hindrance.

Right to privacy is not absolute right. Two competing values viz. prevention of crime and the respect for the right to privacy have to be properly balanced. M.P. Sharma is the case where in the right to privacy invoked first time in the context of search and seizure.

It took a quarter of century of the functioning of the Constitution before the right to privacy received the status of a constitutional right. The main issue relating to the recognition of privacy has confronted the state power of searches and surveillance. The Indian Supreme Court adopted a narrow and formalistic approach, pointing to the absence of a specific constitutional provision analogous to the fourth amendment of the US Constitution to protect the right to privacy of Indian from unlawful searches. This disappearing decision was followed nearly a decade later by Kharak Singh v. State of UP where in the
right to privacy was again invoked to challenge police surveillance of an accused person.

The majority said that personal liberty in Article 21 is comprehensive to include all varieties of rights which go to make up the personal liberty of a man other than those dealt with in Article 19(1)(a). According to the court while Article 19(1)(d) deals with the particular types of personal freedom, Article 21 takes in and deals with the residue.

Govind v. state of Madhya Pradesh is another case on domiciliary visits. The Supreme Court laid down that privacy dignity claims deserve to be examined with care and to be denied only when an important countervailing interest is shown to be superior if the court does find that a claimed right is entitled to protection as a fundamental privacy right, a law infringing it must satisfy the compelling state interest. Over the course of the next three decades, the court has established other aspects of the right to privacy.

Right to privacy gained recognition mainly through judicial activism. It is not a fundamental right but still an essential ingredient of fundamental right. The right is incorporated under Article 21 through various judicial pronouncements, though there are certain statutes which have traces the rights to privacy in it. Such as Sections 28, 29, 164(3) and 165 of Criminal Procedure Code 1973, Sections 228, 376A, 376B, 376C, 376D, 509, 494, 495, 295, and Section 352 of Indian Penal Code 1860, Section 22 of The Hindu Marriage Act 1955, Section 36 of The Children Act 1960, Section 18 of the Indian Easement Act 1882. Right to privacy is further encompassed in the field of Law of Torts, Section 74 of the Indian Contract Act 1872, and Section 122 of the Indian Evidence Act 1872 also touch the privacy aspect, there are certain provisions under Information Technology Act 2000, i.e. Section 30, 33, 66, 72 deals with law relating to privacy, Section 8(1) of The Right to Information Act 2005, Section 2(1) of the Indian Post Office Act 1898 and Section 20 of the Credit Information Companies (Regulation) Act 2005 Enumerates Privacy Principles.

To conclude the right to privacy in India as in any other Jurisdiction, though not statutorily codified as yet. Its scope is by the lack of such
codification neither extremely narrow nor considerably wide. It is on the other hand relatively ambiguous. This implies that this aspect should be handled with a great deal of care and circumspection.
Notes & References

5. AIR 1963 SC 1295.
13. Supra Note 12, at pp 840-842.
20. Supra Note 6(AIR 1975 SC 1378).
21. 381 US 479.
22. 410 US 113.
23. AIR 1997 SC 645.
25. AIR 1981 Supreme Court 625.
26. AIR 1982 Supreme Court 1355.
27. AIR 1992 SC 1858.
29. AIR 2009(NOC) 694(MP).
30. AIR 1950 SC 27.
31. AIR 1963 SC 1295.
32. AIR 1978 SC 597.
33. AIR 1975 SC 1378.
34. AIR 1963 SC 1295.
35. (1604) 5 Coke 91.
36. Ibid.
37. F.S. Nariman, “The right be let alone”, 1977, XVII The Indian Advocate p.79.
38. This phrase was first used by Brandies J his dissent in Olmstead v. United States 277 U.S. 438. In which he summarized the principle underlying the U.S. constitutional guarantees of privacy.
41. Dr. Tabrez Ahmad, “Right to Privacy Constitutional Issue and Judicial Responses in U.S.A. and India”1999, p30.
42. Section 18 illustration (b) Indian Easement Act, 1882.
43. IRL 10 ALL. (1888) 358.
44. The Bench consisted of Sir John Edge, Kt. C.J. and Mr. Justice Mahmood.
45. AIR 1935 All 1002 (the Bench Consisted of Suleiman C.J and Bennet. J).
46. Section 22, of the Hindu Marriage Act, 1955.
47. Section 36, of the Children Act, 1960.
48. Indian Penal Code 1860.
49. Section 509, of the Indian Penal Code, 1860.
50. Section 494 and Sec 495, of the Indian Penal Code, 1860.
51. Section 493, of the Indian Penal Code, 1860.
52. Section 497, of the Indian Penal Code, 1860.
53. Section 498, of the Indian Penal Code, 1860.
54. Section 295, of the Indian Penal Code, 1860.
55. Section 352, of the Indian Penal Code, 1860.
56. Section 350, of the Indian Penal Code, 1860.
57. Section 351, of the Indian Penal Code, 1860.
58. Section 352, of the Indian Penal Code, 1860.
59. Section 90, of the Indian Penal Code, 1860.
60. Section 87 to 92, of the Indian Penal Code, 1860.
61. Section 350, of the Indian Penal Code, 1860.
62. Section 313 & 314, of the Indian Penal Code, 1860.
63. Section 375, of the Indian Penal Code, 1860.
64. Section 378, of the Indian Penal Code, 1860.
65. Section 497, of the Indian Penal Code, 1860.
66. Section 360, of the Indian Penal Code, 1860.
67. Section 415, of the Indian Penal Code, 1860.
68. Section 268, 350 & 441, of the Indian Penal Code, 1860.
69. Section 294, of the Indian Penal Code, 1860.
70. Section 510, of the Indian Penal Code, 1860.
71. Privacy laws in India-Big Brother is watching you, Sourabh Awasthi,
72. Dr. Tabrez Ahmad, Right to privacy: Constitutinal issues and
    Judicial Responses in USA and India, Particularly in cyber age. 29th
73. Section 74, of the Indian Contract Act, 1872.
74. Supra Note 71, p.21.
76. AIR 1972 SC, 2609 at 2614.
80. AIR 1960 SC1125.
82. Ibid.
83. Section 122, of the Indian Evidence Act, 1872.
84. Section 126, of the Indian Evidence Act, 1872.
85. Section 127, of the Indian Evidence Act, 1872.
86. Section 80, of the Information Technology Act, 2000.
87. Section 30, of the Information Technology Act 2000.
89. Section 66, of the Information Technology Act, 2000.
90. Section 72, of the Information Technology Act, 2000.
92. Section 8(1), of the Right to Information Act, 2005.
93. Ibid.
94. AIR 1982 SC 149.
95. AIR 2002 SC 2110.
97. Section 2 (F) of the Act define information means any material in any form including records, documents, memos, emails, opinion, advices press, release, circular order, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information's relating to any private body which can be assessed by a public authority under any other law for the time being enforced right of the citizen vis a vis duty of the state.
98. On overview of the right to Information Act: With reference to the
decision rendered by Central Information Commission, Supreme
99. Section 2(1), of the Indian Post Office Act, 1898.
100. Section 53, of the Indian Post Office Act, 1898.
101. Section 63, of the Indian Post Office Act, 1898.
102. Credit Information Companies Regulation Act, 2005.
103. Section 20, of the Credit Information Companies Regulation Act,
2005.
104. 'Vinod Sethi' personal Liberty meaning and scope. Journal of
Constitutional and Parliamentary Studies vol. IX No. 4, 1975 at p.
446.
107. Section 57, of the Indian Copyright Act, 1957.
108. 1995 PTC Del.