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PRINCIPLES AND APPLICATIONS OF THE RIGHT TO PRIVACY: EVALUATING INTERNATIONAL PERSPECTIVES AND LAWS

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I. ABSTRACT

The right to privacy has been explicitly defined in several jurisprudences as a fundamental right which aims to protect people's correspondence, effects, things and avoid unauthorized and unjustifiable interference of the State or other authorities. This right includes the ability to control the collection, use and disclosure of personal data, including health records, financial information and communications. In this paper, we will examine the actual definition, scope and application of our fundamental right to privacy, evaluating this concept from three legal systems including the USA, India and Liberia. The primary objective of this paper is to ascertain whether the right to privacy is applicable to everyone, to what extent can this right be restricted, what are the grounds to establish a person's legal right not to disclose his effects, correspondence or things. The right to privacy is a fundamental right to be left alone and have control over one's personal information, activities and choices. This right protects individuals from unwarranted intrusion into their lives, encompassing personal data, family matters and private spaces. This right is not absolute and can be subject to reasonable restrictions if a state action meets certain tests of legality. While considering the application of the right to privacy, we will expand into the technological impact on privacy and opinions of prominent justices across several jurisprudence, so as to give us an in depth understanding of this unique right. This paper examines the right to privacy from an international perspective, taking into consideration the meaning, applications and scope from different international treaties, laws, conventions and national protection of the right to privacy.

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II. KEYWORDS

Privacy, Interference, Reasonability, Intrusion, Life

III. INTRODUCTION

The concept of the right to privacy had first emerged in the late 19th century through the notable *Harvard Law Review* article by Samuel D. Warren and Louis Brandeis in 1890, which argued for a legal right to be left alone. The concept has its root in ancient historic setting but was codified as a fundamental human right and solidified in international law with the 1948 *Universal Declaration of Human Rights UDHR* and subsequent treaties like the *International Covenant on Civil and Political Rights ICCPR* 1966, which prohibits arbitrary interference with privacy, and was later adapted to address the challenges of digital age through specific data protection laws.

In the 19th century modern legal concepts began to form in response to new technologies like photography and the rise of sensationalist journalism. The 1890 *Harvard Law Review* article on “the Right to Privacy” can be considered as a landmark text from which the meaning of privacy can be understood as the ‘right to be left alone’, and the article interestingly proposed a legal remedy for any invasion thereof².

The issue under consideration deals with the protection and enforcement mechanisms of the right to privacy in various jurisdictions including the legal and judicial definition of such right as to whether it is absolute, fundamental, or a right depending on circumstances and situations. This paper will firstly evaluate the Universal Declarations of Human Rights UDHR and specific emphasis will be placed on provisions which are related to the subject matter.

As provided under Article 12 of the *Universal Declarations of Human Rights (UDHR)* which formally established the right to privacy, stating that no one should be subjected to arbitrary interference with their privacy, family, home or correspondence nor to attacks

² Samuel D Warren and Louis Brandeis, ‘The Right to Privacy’ (1890) 4 *Harvard Law Review* 193.
https://groups.csail.mit.edu/mac/classes/6.805/articles/privacy/Privacy_brand_warr2.html

on their honor and reputation. This ensures that everyone has the right to legal protection against such interference or attacks, which is essential for human dignity and the freedom to develop one's personality. The right to privacy under this Article is interconnected with other rights like the right to a family life and the freedom to think and act without judgements.

Another significant treaty to consider while discussing the right to privacy from an international purview is the *International Covenant on Civil and Political Rights (ICCPR)*, 1966. Article 17 of the ICCPR reinforces the right to privacy and provides a basis for international law, though it is not legally binding on its own³. As similar to the provisions of the UDHR, the ICCPR guarantees that everyone has the right to legal protection against interference and attacks on their privacy, and that the State has an obligation to adopt legislative and other measures to enforce this right against both the state and non-state actors, as has been detailed in *General Comment No.16*⁴.

Furthermore, the *European Convention on Human Rights (ECHR)*, 1953 provides under Article 8 for the protection and respect for private life and family life, although it allows for interference under specific, lawful circumstances such as must be for national security, public safety, health or morality or for the prevention of a crime⁵. The European Court of Human Rights have defined the concept of private life to very broadly under the provisions of Article 8. It covers things like your right to determine your sexual orientation, lifestyle, and way you look and dress. It also includes your right to control who sees and touches your body. An example may include: The authorities are

³ United Nations, International Covenant on Civil and Political Rights (adopted 16 December 1966) 999 UNTS 171

⁴ CCPR General Comment No. 16: Article 17 (Right to Privacy)
The Right to Respect of Privacy, Family, Home, and Correspondence, and Protection of Honour and Reputation | UN Human Rights Committee (HRC) | April 8, 1988
<https://www.refworld.org/legal/general/hrc/1988/en/27539>

⁵ Council of Europe, European convention for the Protection of Human Rights and Fundamental Freedoms (adopted 4 November 1950, entered into force 3 September 1953) ETS 5.

prohibited by law from taking your blood sample for any test whatsoever, without your due consent or approval.

The right to privacy guarantees a person, protection from unwanted and unwarranted interference by state, government or any other person into your private life (here private life includes, all aspects of your life which are not available to the public access).

A. Objectives of this Paper

This paper aims to understand the evolution, concept and applications of the right to privacy from an international perspective. The paper will.

1. Examine the constitutional framework of privacy rights in India, USA and Liberia.
2. Analyze landmark judicial interpretations.
3. Evaluate data protection mechanisms; and
4. Identify gaps and recommend possible improvements.

B. Research Queries

The paper will answer questions like.

1. How is the right to privacy defined and enshrined in the constitutions and legal frameworks of India, the U.S, and Liberia respectively?
2. Are there similarities or differences in the judicial interpretations of the right to privacy in the landmark cases of *K.S Puttaswammy vs. Union of India* (India) and *Katz vs. United States* (US)?
3. How does the Digital Personal Data Protection Act, 2023 work in protecting privacy in India?
4. How does the U.S ensure data protection with its makeshift of federal and state laws?
5. How does Liberia address the collection, processing and use of personal data collected by state and non-state actors in the absence of a given legal framework with specific applications?

C. Research Hypothesis

The paper acknowledges the disparity between international standards and state practices while suing international human rights laws as established by instruments like the Universal Declarations of Human Rights, the International Covenant on Civil and Political Rights ICCP, the paper will blend together these frameworks to ascertain the gap between them and the implementation of privacy protections by state and non-state actors.

D. Research Methodology

This paper is explorative and expository in nature as it explores various international laws, provisions and treaties that deal with the subject under discussion. Interference in this paper refers to any entry, search or seizures done without due process. State refers to any body, agency, entity or authority which is under the control and supervision of government. Right refers to a claim or legal entitlement to something while life refers to the existence or reflection of a person's existence whether by his correspondences, family, home, effect or life itself.

The paper examines the legal framework and protection of the right to privacy from the United States' perspective, the Indian Legal system as well as the Liberian Jurisprudence. The paper uses Primary sources like International Laws, treaties and conventions as well as Constitutional provisions, legislations and case laws to provide a more credible and authentic exposes. It also considers the help of secondary sources like Journals, articles, blogs, and websites to provide a simplified but authentic version of the subject matter.

E. Literature Review

In the below section, we will consider the right to privacy from three distinct jurisprudence including India, US and Liberia particular emphasis will be placed on constitutional provisions, landmark judgements and prominent judges' opinions.

IV. INDIA AND THE RIGHT TO PRIVACY

The most significant judgement in the Indian legal system relative to the right to privacy is the famous case of *Justice K.S. Puttaswamy*, wherein the Hon'ble Supreme court unanimously declared the right to privacy a fundamental right under Article 21 of the Indian Constitution and established a three-pronged test for any encroachment of the right to privacy which were:

1. Test of legality, to establish the existence of law.
2. Test of necessity; to ascertain the legitimate state's objectives; and
3. Test of proportionality; to establish the rational connection between objective and means.

This decision overruled the 1954 *M.P. Sharma's* judgement and the 1962 *Kharak Singh's* judgement, which had previously held that privacy was not a constitutionally protected right. The nine-judge bench in *Justice Puttaswamy's* case unanimously declared that right to privacy was a fundamental right under the provisions of Article 21 of the constitution, making it an integral part of the right to life and personal liberty. This judgement also established that the right to privacy is not absolute and can be restricted if the state actions meets certain tests, such as having legislative mandate, pursuing a legitimate state purpose and being proportionate⁶.

Dr. J.N. Pandey's *Constitutional Law of India* chapter 11, while talking about the right to life and personal liberty as enshrined under the provisions of Article 21 of the Indian constitution; states that '*a person can be deprived of his life and personal liberty if two conditions are complied with, first there must be a law and secondly, there must be a procedure established by law, provided that the procedure satisfies the requirement of natural justice i.e., it must be just, fair and reasonable*'⁷.

⁶ Justice K.S. Puttaswamy & Anr. vs. Union of India & Ors. AIR 2017 SC 4161

⁷ J N Pandey, *Constitutional Law of India* (57th edn, Central Law Agency 2024) Ch. 11

In this text, *Article 21* of the Indian constitution provides that; ‘*No person shall be deprived of his life or personal liberty except according to the procedures established by law*’ here the first emphasis was that before any interference be made into a persons’ personal life and liberty, there must be a procedure established by law, which meant that this right was only protected against arbitrary actions of the executive inasmuch as the state legislature could interfere with the liberty of persons if such interference could be supported by valid laws. This was further clarified in the famous case of *Maneka Gandhi vs. Union of India* – wherein the provisions of *Article 21* were further expanded and interpreted to protect the right to life and personal liberty from both executive and legislative actions⁸.

In addition to constitutional provisions protecting the right to privacy, India has enacted several legislations to suit the current-day-realities in ensuring that people’s right to privacy are protected. The most relevant legislation relating to protection of the right to privacy is; The *Digital Personal Data Protection (DPDP) Act, 2023*⁹ which was enacted to govern the processing of digital personal data. Providing a legal framework of how personal data can be collected, processed and stored by bot public and private entities. It ensures consent-based data processing of the individual for a specific and legitimate purposes, and it grants data principals right to access and correct their personal data, as well as to have it deleted.

V. THE UNITED STATES AND THE RIGHT TO PRIVACY

The US constitution, which does not explicitly state the right to privacy in text but has been observed to have been protected by the Supreme court through implied rights derived from several amendments particularly the *Fourth Amendment* (Protection from unreasonable search and seizures). In the context of the US laws, the right to privacy has been interpreted as including protection against unwarranted government intrusion into personal and private matters. The Fourth Amendment is a key aspect of privacy that safeguards against unwarranted intrusions into people’s homes and belongings. The

⁸ *Maneka Gandhi vs. Union of India*, AIR 1978 SC 597.

⁹ *Digital Personal Data Protection DPDP Act, 2023* (Act No 22 of 2023) (India)

Fourth Amendment clearly states that; *'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 Warrants shall be issue, but upon probable cause, supported by Oath or Affirmation, and particularly describing the place to be searched, and the persons or things to be seized'*¹⁰. In this text, the Amendment is not particular about every unreasonable law enforcement practice but it is emphatic of the 'Search' and 'Seizure' arising thereof.

In the famous case of *Katz vs. United States*¹¹, the Hon'ble Supreme Court established that the Fourth Amendment's protection against unreasonable searches and seizures extends to any place where a person has a reasonable expectation of privacy, not just any physical locations. In this case, the government's electronic eavesdropping on a phone conversation from a public booth was deemed an illegal search because Katz had justifiable expectation that his conversation would be private, even though there was no physical intrusion into the booth. The court held that a warrant based on probable cause is required for such surveillance.

Mr. Justice Harlan in his concurring opinion states that *'one who occupies a telephone booth, shuts the door behind him, and pays the toll that permits him to place a call is surely entitled to assume that his conversations is not being intercepted. The point is not that the booth is accessible to the public at other times, but that it is a temporarily private place whose momentary occupants' expectations o freedom from intrusion are recognized as reasonable'*¹².

This opinion is also following the justification that *what a person knowingly exposes to the public, even in his own home or office, is not subject to the Fourth Amendment protection. But what he seeks to preserve as private, even in area accessible to the public, may be constitutionally protected*¹³.

¹⁰ U.S. Constitution – Fourth Amendment | Resources | Constitution Annotated Congress.gov | Library of Congress | Last visited October 22, 2025
The original text of the Fourth Amendment of the Constitution of the United states.
<https://constitution.congress.gov/constitution/amendment-4/>

¹¹ *Katz v. United States*, 389 U.S. 347 (1967)

¹² Mr. Justice Harlan Concurring Opinion; Justia U.S. Supreme Court Center *Katz v. United States*, 389 U.S. 347 (1967)

¹³ Criminal Procedure Principles, Policies and Perspectives:5th Edition American casebook Series

VI. LIBERIA AND THE RIGHT TO PRIVACY

In the Liberian Jurisprudence, the right to privacy is provided by law under the provisions of *Article 16* of the Liberian Constitution. The right to privacy is considered a fundamental right which prohibits unlawful interference with a person's privacy, family, home or correspondence. It protects individuals from unwarranted intrusion by the State or others, and is can only be limited through a court order similar to the U.S Fourth Amendments provisions. The concept of this right can first be noticed under the provisions of *Article 15* (freedom of Speech and Expression) clause 'b' of the constitution which provides in text that; *'The right to freedom of expression encompasses of the right to hold opinions without interference and the right to knowledge..., it includes non-interference with the use of mail, telephone, and telegraph'*¹⁴.

This first introduces the concept of the right to privacy, and it is followed by *Article 16*.

It is important to note that Liberia does not have a specific comprehensive legislation which protects personal data or any data protection laws to conform with current day challenges in the legal system. Although Liberia has ratified the International Covenant on Civil and Political Rights ICCPR which also includes privacy rights, the country does not have a comprehensive law on data protection, and no Data Protection Authority has been appointed. There are certain sectoral laws with relevant provisions including the *Telecommunications Act, 2007*, which includes some procedural powers related to search and seizures in cybercrime cases, but lacks comprehensive privacy protections.

The signing of the *ECOWAS Supplementary Act on Personal Data Protection* is a bold step towards establishing a regional data protection framework. This supplementary Act provides a framework for member states to create and update their national data protection laws, ensuring a more consistent approach for data handling within the region. This means that the Liberian Legislature has since had a universal draft to adopt and enact such into legislation but has not done otherwise. It is no doubt to say that the

Joshua Dressler and George C Thomas

¹⁴ Constitution of Liberia 1986; Article 15 b

country-Liberia leaves personal data vulnerable to the public by not providing data protection laws which should have govern and enforce such protection.

It can be recommended that the Liberian Government needs to first, enact and enforce a comprehensive data protection law, and establish an independent regulatory body and invest in public awareness as well as investing in cybersecurity infrastructure. As mandated by the ECOWAS Supplementary Act, Liberia needs to establish an independent Data Protection Authority DPA to oversee the enforcement of data protection across the country.

This body should have the authority to proactively investigate and audit the data processing activities of both public and private entities. And must have the power to impose meaningful penalties and fines on organizations that violate the Data protection Laws as similar to India's proposed Data Protection Board DPBI which, once constituted, will monitor compliance of data protection laws, investigates data breaches and impose penalties violations while adjudicating disputes between individuals and data fiduciaries.

VII. SUGGESTIONS AND RECOMMENDATIONS

In India and the U.S, the right to privacy is not explicitly stated in the constitution but has been overtime, established through judicial interpretation which are grounded in broader constitutional protections. For these countries where the right to privacy is not explicitly defined or given by constitutional provisions, judicial interpretation has been both a flexible and dynamic tool, which allow courts to recognize and protect privacy in new contexts such as technology and family life. This reliance on interpretation rather than explicit constitutional texts, makes privacy rights more vulnerable to reversal. Judicial interpretation of privacy rights is not as secure as those explicitly enumerated in the constitution, because, judicial shifts (activisms) may overturn long-standing precedent and reduce the effectiveness or privacy rights.

On the other hand, the constitution of Liberia explicitly guarantees the right to privacy. And in spite of a clear constitutional mandate, Liberia currently lacks comprehensive, general data protection legislation to implement and reinforce its constitutional mandate. Liberia should draw best practices from India's *Digital Personal Data Protection Act, 2023* particularly *chapter 2 (u/s 5-7)* which requires clear, explicit and informed consent from data principals for processing personal data, additionally, drawing from *Section 8-10* which requires reasonable security safeguards by data fiduciaries to prevent data breaches as well as to enforce high level of compliance by the government. The principles with regards to fundamental data protection principles which includes lawful, fair and transparent processing of personal data, purpose, limitation and data minimization as well as granting individuals (Data Principals) which guarantees clear and actionable rights over their personal information; must also be adopted to address the issue of data protection and enforcement in the country¹⁵.

It is important to recommend that, for India, once the DPBI is constituted, it must be fully established and operate free from central government's influence while enforcement mechanism must be more rigid when considering compliance for smaller entities as well as implementation guidance. The Board must be exempted from government entities in the interest of national security and public order. Couple with these, a robust oversight mechanism is needed to prevent misuse and protect citizen's privacy. Whereas, in the U.S, although the U.S lacks a single comprehensive data protection law, data protection is ensured through a multi-layered sectoral approach with sector-specific laws and the Federal Trade Commission (FTC)'s enforcement powers and a growing state-level legislation like the California Privacy Rights Act (CPRA). There is a need to ensure that companies understand both the federal baseline and the specific, evolving requirements in each state where they operate in order to ensure due compliance. Likewise, for Liberia, it is very important to enact a specific legislation drawing best practices from India's DPDP Act as well as the EU data protection laws, which addresses data protection and

¹⁵ Digital Personal Protection Act 2023 (Act No 22 of 2023) (India)

ensures privacy as to conform with the present-day realities and protect the citizens' right to privacy.

VIII. CONCLUSION

In summary, it is safe to submit that relating to the right to privacy, every citizen must be cognizance of the fact that the information, data or whatsoever things which are shared must be done with due care and precautions. It is likewise crucial to understand that when claiming coverage and protection of this right, one must have exhibited due precautions to protect his information, family, effects and correspondence and must have exercise a reasonable expectation of privacy on information which he willingly shares or discloses to the other party. Information given to the other party must be used for its intended purposes. Furthermore, the state should strengthen the enforcement mechanisms on privacy as well as provide reasonable and justifiable grounds when placing limitations or restrictions on people's right to privacy.

In order to ensure protection of this right, it is crucial that government create, enact, and enforce strong data protection laws which aligns with international standards that ensures privacy protection. These laws should adopt specific protection mechanisms as provided and ensured by conventions like the *ICCPR Article 17*, prohibiting unlawful attacks on a person's reputation while protecting privacy, the *UDHR Article 12* which also protect against arbitrary interference with privacy as well as adopting *OECD's privacy* guidelines which are foundational global laws for data protection. Another significant adoption recommended is, drawing best practices from the General Personal Data Regulation (GDPR), a European Union regulation which has since been a global framework and has influenced many other countries' data protection laws. These guidelines however apply to any organization that processes data of EU residents, regardless of the organization's location.

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