

Right to privacy: India couldn't have got a better gift in 70th year of Independence

The Supreme Court's declaration that citizens have a 'right to be left alone' is a huge milestone in the history of the Indian Republic and civil rights. The court has ruled that citizens have a right to privacy, which is intrinsic and fundamental to dignified human existence. While the court has not spelt out the full contours of privacy – it has given an illustrative example as to what privacy means. It said privacy includes at its core the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home and sexual orientation. By doing so, the court has affirmed an unwritten and ambiguous right, though recognised internationally as a fundamental human right. By stepping in – the courts have also filled a huge void left by our constitution framers.

Privacy as a right has not been given a separate legal status in any country. Across the world it has arisen out of judicial pronouncements. The nine-judge Supreme Court bench, which decided on the case, had to cast away the historical burden of previous judgments that refused to recognise privacy as a fundamental right. Interestingly, while doing so, a son, who was part of the nine-judge bench, overruled his father's previous verdict in the infamous ADM Jabalpur case. While this judgment has crystallised an amorphous idea – it has also reopened a debate on many contentious issues that have been decided in the past. For instance, in the case of rights of the LGBT community, this nine-judge bench is of the opinion that the matter was wrongly decided on the touchstone of privacy. Sexual orientation of an individual is a matter of privacy. Similarly, the cases of abortion and willful termination of one's life – are set to witness renewed deliberations.

So far, the court has only decided if there is a right to privacy. Now that this is settled, it will turn its attention to the government project Aadhaar. Privacy is central to the legal challenge facing Aadhaar, the 12-digit biometric unique identity number; it is yet to be tested on its touchstone.

While privacy in India is still in its infancy, following immense developments in the field of media, technology and scientific thinking, the increasing role of corporations in the lives of citizens there is an urgent need to address this. The country could not have got a better gift from the judiciary for its 70th year of independence.

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