

RIGHT TO PRIVACY OF WOMEN: THE LEGAL LANDSCAPE (2022) By Sriparna Rajkhowa, Published by EBH Publishers (India), pp 167. Price INR 550/, ISBN: 9789392038228.

THE EVOLUTION of the concept of privacy as a fundamental human right has been a subject of ongoing debate among judicial, academic, and societal circles for several decades. However, Sriparna Rajkhowa's *Right to Privacy of Women: The Legal Landscape* offers a distinctive and compelling contribution by focusing on the intersection of gender and privacy. In light of the landmark judicial decision in *Justice K. S. Puttaswamy (Retd.) v. Union of India*,¹ and the growing challenges posed by the digital age, the book's relevance is significantly enhanced. This comprehensive work provides a nuanced analysis of women's right to privacy within both national and international legal frameworks.

In preface,² author introduces the central theme of the book: autonomy and dignity, which are intrinsically linked to privacy. The author contends that in today's rapidly evolving world, development should prioritize empowering individuals, particularly women, by safeguarding their individuality and private sphere. The preface rightly places the right to privacy as a universal and cross-border concern, emphasizing the need for local legislative and constitutional measures to ensure its protection.

The foreword³ by Justice Ujjwal Bhuyan, Judge Supreme Court of India reinforces the book's academic value and foregrounds the jurisprudential evolution of Article 21 of the Constitution. It pays particular attention to reproductive rights, human trafficking, and sexual harassment, citing cases such as *Maneka Gandhi v. Union of India*,⁴ *Vishaka v. State of Rajasthan*,⁵ and *Suchita Srivastava v. Chandigarh Administration*.⁶ The foreword also highlights the centrality of chapter three, dealing with challenges to women's dignity in the face of technological and institutional threats.

The present book consists of six chapters. Chapter one,⁷ of *Right to Privacy of Women: The Legal Landscape* introduces readers to the complex and often elusive concept of privacy. Drawing from a diverse range of thinkers and legal scholars, the chapter delves into various interpretations of privacy, exploring its philosophical and legal dimensions. The author begins with Charles Fried's seminal definition,⁸

1 AIR 2017 SC 4161.

2 Sriparna Rajkhowa, *Right to Privacy of Women: The Legal landscape*, (EBH Publishers, Guwahati, Assam, India, 2022), Preface.

3 *Id.*, Foreword.

4 AIR 1978 SC 597.

5 (1997) 6 SCC 241.

6 (2009) 14 SCR 989

7 *Supra* note 2, ch. 1.

8 Charles Fried, *An Anatomy of Values: Problems of Personal and Social Choice* 142 (Harvard University Press, 1970).

emphasizing privacy as control over personal information. Additionally, the chapter traces the evolution of privacy, from the 1890 Harvard Law Review article by Warren and Brandeis⁹ to its recognition in constitutional and international human rights law.

The chapter elucidates that privacy has historically lacked a precise and universally accepted definition. Scholars such as Fernando Volio¹⁰ perceive all human rights as facets of the right to privacy, while others, like Fredrick Davis,¹¹ contend that privacy holds significance solely on a psychological level, devoid of independent legal standing. This disparate viewpoint underscores the evolving nature of privacy in contemporary society. The chapter delves into the manner in which judicial activism, particularly in the United States Supreme Court, has facilitated the recognition of privacy, exemplified by landmark cases such as *Griswold v. Connecticut*,¹² *Olmstead v. United States*,¹³ and *Whalen v. Roe*.¹⁴

A key point is that privacy is closely linked to personal freedom and self-respect. This is especially important when it comes to women's rights, since controlling personal and bodily information is connected to broader issues of autonomy and human rights. The chapter ends by saying that new technologies have made privacy more challenging, so we need strong laws to protect it. This first chapter sets the stage for understanding how privacy is important in the legal and gendered context, and prepares the next chapters for more specific discussions.

Chapter two¹⁵ delves into the intersection of the right to privacy and human rights, particularly focusing on women. Building on the conceptual groundwork established in the introduction, the author emphasizes that privacy is an indispensable aspect of human dignity and a fundamental component of human rights. The chapter commences by highlighting how privacy is recognized as a fundamental right in various international instruments. These instruments include the Universal Declaration of Human Rights (UDHR), 1948,¹⁶ the International Covenant on Civil and Political Rights (ICCPR), 1966,¹⁷ the International Covenant on Economic, Social and Cultural Rights (ICESCR)¹⁸ and the European Convention on Human Rights (ECHR).¹⁹

9 Samuel D. Warren and Louis D. Brandeis, "The Right to Privacy" 4 (5) *HLR* 193-220 (1890)

10 See Fernando Volio, "Legal Personality, Privacy and the Family" in Henkin (ed) *The International Bill of Rights* (Colombia University Press 1981).

11 Frederick Davis, What Do We Mean by "Right to Privacy?" 4 *S.D. L. R* 1, 18 (1959).

12 (1965) 381 U.S. 479.

13 (1928) 277 U.S. 438.

14 (1977) 429 U.S. 589.

15 *Supra* note 2, ch. 2.

16 The Universal Declaration of Human Rights (UDHR), 1948, art. 12.

17 The International Covenant on Civil and Political Rights (ICCPR), 1966, art. 17.

18 The International Covenant on Economic, Social and Cultural Rights, 1966, art. 9, 10, 12, 15.

19 The European Convention on Human Rights (ECHR), 1950, art. 8.

Notably, global initiatives like the Tehran (1968)²⁰ and Vienna (1993)²¹ conferences are cited as pivotal moments in the evolution of international human rights discourse. The author emphasizes how post-colonial constitutions and legal frameworks have incorporated principles of equality, non-discrimination, and dignity, which are fundamental to safeguarding privacy, particularly for women. The narrative then delves into the philosophical and cultural origins of privacy, tracing its roots back to ancient Indian texts such as the *Manusmriti*, *Dharmasastras*, and *Arthashastra*, as well as the Greco-Roman, Islamic, and Judeo-Christian traditions. While these ancient sources may not employ the contemporary terminology of privacy, they express a longstanding concern for personal and spatial integrity. The author's analysis is particularly compelling as it explores how privacy concerns have transformed into modern legal protections. Drawing from European legal history, the author highlights examples like the Justices of the Peace Act (1361),²² *Entick v. Carrington*,²³ and French and Norwegian laws, demonstrating a growing recognition of the need to safeguard individuals from unwarranted state intrusion.

The chapter concludes by examining the status of privacy as a fundamental right, highlighting its recognition in over 150 countries. While privacy is not always explicitly mentioned in constitutional texts, it is often inferred from rights to dignity, liberty, and equality. The chapter emphasizes the need for robust legal frameworks and enabling domestic legislation to make this right effective. It acknowledges that while privacy has been traditionally treated as a gender-neutral right, its violations disproportionately affect women. The chapter delves into issues like surveillance, biotechnology, reproductive rights, and bodily autonomy, critiquing the failure of legal systems to fully acknowledge the gendered impacts of these issues. It concludes by calling for the empowerment of women through awareness and enforcement of privacy rights.

Chapter three²⁴ delves deeper into the discussion on women's right to privacy, exploring its interconnectedness with dignity in an increasingly digital and interconnected world. It begins by emphasizing that while modern technological advancements have brought about transformative changes, they also pose significant risks to personal privacy, particularly for women. In response, the chapter advocates for the establishment of robust and pragmatic legal frameworks at both the domestic and international levels to effectively counter digital intrusions, identity theft, and violations of bodily autonomy.

20 International Conference on Human Rights (Teheran, 1968).

21 World Conference on Human Rights, Vienna, 1993.

22 Justices of the Peace Act, 1361.

23 (1765) 95 ER 807.

24 *Supra* note 2, ch.3.

A significant portion of the chapter delves into feminist critiques of the human rights framework. Feminists have consistently highlighted the “gender myopia” inherent in international law, which has historically failed to recognize oppressive practices such as bodily violations and domestic abuse as human rights issues. Moreover, the chapter explores how the rights discourse has been both expanded and constrained by political realities. While instruments like CEDAW, 1979,²⁵ have laid essential groundwork, limitations in enforcement and the frequent reservation by states dilute their effectiveness. Nonetheless, achievements like Agenda 5 of the Sustainable Development Goals,²⁶ and the efforts of UN Women²⁷ reflect the slow but steady mainstreaming of women’s rights including the right to privacy.

The chapter delves into key issues such as marriage, reproductive rights, trafficking, HIV/AIDS, sexual orientation, and privacy. It explores how privacy is evolving in relation to changing family structures, including live-in relationships and non-traditional familial arrangements. The chapter uses legal precedents like *Griswold v. Connecticut*²⁸ and decisions by Indian high courts to argue for the right to autonomy in personal relationships. It concludes that legal and institutional recognition of privacy must be accompanied by social transformation. True dignity, the chapter contends, arises not only from abstract rights but from the ability to exercise them without fear or systemic obstruction. Through feminist advocacy, legal reform, and inclusive public policy, the right to privacy can become a genuine catalyst for women’s dignity.

The author advocates for enhanced legal safeguards encompassing decisions pertaining to marriage, partner selection, and motherhood, emphasizing their profound connection to human dignity. The author further enriches the analysis by elucidating how technological advancements such as artificial intelligence, surveillance instruments, and vast datasets exacerbate these vulnerabilities, particularly for marginalized women.

Chapter four delves into the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)²⁹ adopted by the United Nations General Assembly in December 1979 and its subsequent enforcement. CEDAW succeeded the 1967 Declaration on the Elimination of Discrimination against Women, which lacked binding force. It represents a significant milestone in international women’s rights law, establishing an international standard for the protection and promotion of women’s human rights. The Convention holds both state and non-state actors accountable for respecting, protecting, and fulfilling women’s human rights. Despite

25 Convention on the Elimination of All Forms of Discrimination Against Women, 1979.

26 The Sustainable Development Goals, Goal 5.

27 UN Women, available at: <https://www.unwomen.org/en/about-us/about-un-women> (last visited on July 20, 2025).

28 *Griswold v. Connecticut*, 381 U.S. 479 (1965).

29 Convention on the Elimination of all Forms of Discrimination against Women, 1979.

its ambitious objectives, CEDAW has faced criticism, particularly due to the substantial number of reservations made by states parties. These reservations often undermine the enforceability of core provisions. For instance, Article 16³⁰ prohibits discrimination in matters related to family and marriage but does not explicitly affirm the right to privacy.

The chapter delves into the significant global effort to uphold women's rights, covering most of the relevant portions of the CEDAW³¹ and its Optional Protocol.³² While the author doesn't explicitly mention the right to privacy, they highlight that the Convention's provisions and the evolving jurisprudence of the treaty body have contributed to its recognition. International developments, particularly through the UN Human Rights Council, have also brought privacy concerns to the forefront, particularly in the context of health, expression, and the digital age.

Mass surveillance and other intrusions into women's private lives infringe upon their dignity, autonomy, and bodily integrity. Preserving the right to privacy is crucial within a comprehensive framework of human rights. CEDAW serves as the international framework, but its effective implementation necessitates robust national laws, policies, and judicial remedies. International bodies should be consulted as a last resort.

Chapter five³³ shifts the discourse to the national legal frameworks, with a special focus on India. The author meticulously outlines the jurisprudence of privacy within the Indian constitutional context, tracing its evolution from judicial ambiguity to unequivocal constitutional affirmation. This chapter is particularly significant as it places the right to privacy at the forefront of India's legal discourse, integrating it into the broader framework of women's rights and bodily autonomy.

The author rightly points out the landmark judgment in *Kharak Singh v. State of Uttar Pradesh*,³⁴ in which the Supreme Court suggested a nascent understanding of privacy, albeit inconsistently. This uncertainty was subsequently resolved in the landmark case of *Justice K.S. Puttaswamy (Retd.) v. Union of India*,³⁵ where a nine-judge bench unanimously declared the right to privacy as an inherent component of Article 21³⁶

30 *Id.*, art. 16.

31 *Supra* note 29.

32 Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 1999. resolution A/RES/54/4 at the fifty-fourth session of the General Assembly of the United Nations

33 *Supra* note 2, ch. 5.

34 1963 AIR 1295.

35 *Supra* note 1.

36 The Constitution of India, art. 21.

(Right to Life and Personal Liberty) and as an integral part of the golden triangle, alongside Articles 14³⁷ and 19³⁸ of the Indian Constitution.

The author critically examines how the right to privacy, legally recognized, is not gender-neutral in its application. The chapter delves into how privacy intersects with various issues, including marital rape, reproductive autonomy, menstrual health, surveillance, and gender identity. It also discusses *Suchita Srivastava v. Chandigarh Administration*,³⁹ where the Supreme Court affirmed a woman's right to make reproductive choices as part of personal liberty under Article 21.⁴⁰

The author broadens the analysis by briefly examining how privacy is situated in other constitutional systems. She highlights developments in the United States, Canada, and South Africa, demonstrating how comparative jurisprudence has influenced Indian courts. For instance, references to landmark cases like *Roe v. Wade*,⁴¹ and *Planned Parenthood v. Casey*,⁴² offer a transnational context for debates on reproductive rights and bodily autonomy.

The concluding chapter delves into India's legislative initiatives to safeguard data protection and privacy. The author critically examines the Data Protection Bill 2022,⁴³ which was taken by the Parliament and replaced by the Digital Personal Data Protection Bill, 2023⁴⁴ and now enacted in form of the Digital Personal Data Protection Act, 2023.⁴⁵ The author examined the Data Protection Bill, 2022 highlighting its potential and limitations, particularly in the absence of a gender-sensitive framework. While acknowledging the increasing significance of digital privacy, Author advocates for a law that explicitly safeguards women's privacy against intrusive data collection, surveillance, and profiling both by state and non-state entities.

The chapter persuasively argues that the legal recognition of privacy is inadequate without considering the lived experiences of women. As India approaches the establishment of a novel privacy law, this chapter serves as a timely reminder that privacy is intrinsically linked to dignity, autonomy, and gender justice.

37 *Id.*, art. 14

38 *Id.*, art. 19

39 *Supra* note 6.

40 *Supra* note 36, art. 21.

41 410 U.S. 113 (1973).

42 505 U.S. 833 (1992)

43 The Data Protection Bill, 2022, *available at*: https://prsindia.org/files/bills_acts/bills_parliament/2022/The%20Digital%20Personal%20Data%20Potection%20Bill,%202022.pdf (last visited on July 20, 2025).

44 The Digital Personal Data Protection Bill, 2023, (Bill No. 113 of 2023).

45 The Digital Personal Data Protection Act, 2023 (Act 22 of 2023).

Chapter six concludes the book with a thorough examination of the evolution, challenges, and necessary reforms related to women's privacy rights. It reinforces earlier assumptions made in the book and presents global and domestic trends, judicial developments, and concludes with a call for legislative action and policy measures to safeguard women's privacy.

The book acknowledges that women's privacy is under significant strain due to technological advancements and inadequate legal protection. While there has been judicial progress, such as the *Puttaswamy* judgment⁴⁶ in India, formal legislative acknowledgment and safeguards remain insufficient. Judicial decisions have reinforced privacy protections, but the reversal of *Roe v. Wade*⁴⁷ in the US and India's Supreme Court ruling in the *Puttaswamy*⁴⁸ case highlight both progress and challenges in judicial advocacy for women's privacy. The expansion of surveillance, cyber intrusion, and the digital footprint has exacerbated risks to women's privacy.

The chapter also identifies several shortcomings, including the absence of a unified definition of privacy and inadequate protections in areas such as biotechnology, biometric data, and surveillance. Same-sex couples and reproductive autonomy issues remain inadequately addressed. Additionally, the chapter suggests enacting a comprehensive privacy law tailored to address personal, reproductive, health, digital, and identity-related aspects of women's lives. It also proposes strengthening surrogacy and ART-related laws to respect women's autonomy and privacy.

The book comes with proper table of cases and bibliography with proper references. As the book was published in year 2022, and there has been significant changes in the data protection field as Indian parliament has enacted the Digital Personal Data Protection Act, 2023 and various rules have been framed under the Act. But undoubtedly, this book covers all the important developments till 2022 and makes a useful contribution to the discourse on right to privacy specially in relation to women.

*Salman Qasmi*⁴⁹

46 *Supra* note 1.

47 (1973) 410 U.S 113.

48 *Supra* note 1.

49 Ph.D. Scholar, Indian Law Institute, New Delhi.