

PS643

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- Indian Data and AI Policy
- First public policy for data: by Britisher (telegraph law)
- **The Indian Telegraph Act, passed in 1883, was intended to give the Central Government power to establish telegraph lines on private and public property.**

1. **M.P. Sharma Vs. Satish Chandra (1954):**

- This case centred around a company's alleged embezzlement, where the petitioner questioned the constitutionality of document seizure.
- The Supreme Court ruled that the Constitution did not explicitly recognize privacy as a fundamental right. In their view, the framers of the Constitution did not intend to protect the individual's right to privacy regarding issues like search and seizure.
- This raises the question: What about laptops in today's context?

2. **Kharak Singh Vs. State of UP (1964):**

- In this case, Kharak Singh was suspected of being a gangster, and the police continuously harassed him by shadowing him and disturbing him at night.
- The Supreme Court struck down the practice of nighttime police visits but still ruled that the Constitution did not guarantee privacy as a fundamental right.
- However, the court recognized a "residual" personal right to privacy under Article 21, which protects the right to life and individual liberty.
- This raises the question: Is treating history sheeters this way acceptable?

3. **ADM Jabalpur Vs. Shivkant Shukla (1976):**

- This ruling came during the Emergency (1975-1977) period when civil liberties were suspended. The government argued that, in times of national emergency, the State had the power to override individual

rights, including the right to challenge unlawful detention (habeas corpus).

- The court sided with the government, holding that personal freedoms could be suspended in the interest of State security.

4. **Navtej Singh Johar v. Union of India (2018):**

- This landmark case led to the decriminalization of same-sex relationships in India, effectively striking down parts of **Section 377** of the Indian Penal Code. Section 377 was a colonial-era law that criminalized "unnatural" sexual acts, including homosexual activity.
- The Supreme Court ruled that the law violated fundamental rights, particularly the right to **privacy, dignity, and equality** for the LGBTQ+ community.
- The ruling reinforced the idea that the State has no business interfering in the private lives of consenting adults.

5. **Puttaswamy v. Union of India (2017):**

- This case challenged the **Aadhaar scheme**, which required Indian citizens to provide biometric data to obtain a unique identification number (Aadhaar) for accessing government services. Justice Puttaswamy, a retired High Court judge, argued that this system violated the right to privacy.
- The government contended that the Indian Constitution did not explicitly protect privacy.
- **Supreme Court ruling:** The court rejected the government's argument and declared that privacy is an **inherent part of Article 21** (right to life and personal liberty). This judgment overturned several earlier decisions, like the ones in **M.P. Sharma** and **Kharak Singh**, which had denied the existence of a constitutional right to privacy.