Right to Privacy

What was the issue?

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The government’s move to make AADHAR mandatory for all citizens has once again triggered a debate around Right to Privacy.

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What is the present status of right to privacy?

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- Right to Privacy does not find any mention in the Constitution.
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- This right has been picked from Article 19 and 21 which deals with right to life and liberty.
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- In the absence of clarity, it has been defined only by a string of judgments.
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- As early as 1954, the apex court observed in a ruling that right to privacy is not a recognised right listed under Article 19 of the Constitution.
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- It also held that it would not be possible to import the right by ‘strained construction’.
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What were the landmark judgements in this regard?

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- **Kharak Singh vs. State of UP -** Extending the dimension of ‘personal liberty,’ the apex court for the first time declared right to privacy to fall under the purview of Article 21.
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- The court defined the right of personal liberty in Art. 21 as a right of an individual to be free from restrictions or encroachments on his person, whether those restrictions or encroachments are directly imposed or

indirectly brought about by calculated measures.
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- **Govind vs. State of MP -** The top court held that right to privacy cannot be made an absolute right.
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- Subject to reasonable restrictions, the right to privacy could be made valid.
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- The right to privacy will have to go through a process of case by case development.
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- **Rajagopal vs. State of T.N -** The court defined privacy as part of Article 21 and as a right to be let alone.
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- A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, childbearing and education among other matters.
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- None can publish anything concerning the above matters without his consent whether truthful or otherwise and whether laudatory or critical.
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- Further the court stated an exception in this case where a person voluntarily involves himself into a controversy or invites one, that person would not fall under the right to privacy.
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- **Naz Foundation vs. Govt. of NCT Delhi -** The top court cited Article 12 of the Universal Declaration of Human Rights and Article 17 of the International Covenant on Civil and Political Rights which define privacy as no arbitrary interference with home, family or honour and reputation.
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- The court laid down the procedure for interference.
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What is Supreme Court rationale?

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- The apex court laid down three categories under which the term privacy must fall for an individual to avail the said right.
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- Any law interfering with personal liberty of a person must satisfy a triple test.
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- It must prescribe a procedure;
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- The procedure must withstand a test of one or more of the fundamental rights conferred under Article 19 which may be applicable in a given situation;
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- It must also be liable to be tested with reference to Article 14.
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