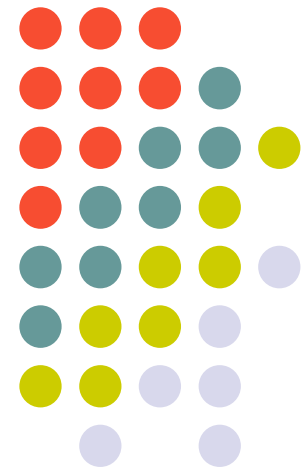


Right to privacy- Justice Puttaswami Case

"In the 21st century, a government that cannot protect its citizen 'right to privacy cannot credibly maintain a democratic regime of equal treatment under the law"



Privacy and International Law



- ❖ **UDHR art. 12 and Art. 17 of ICCPR**
- ❖ **Art. 17 of ICCPR says that:**
 1. No one shall be subjected to **arbitrary or unlawful interference with his privacy**, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
 2. Everyone has the right to the protection of the law against **such interference or attacks**.
- ❖ India signed and ratified the ICCPR on April 10, 1979, without reservation.

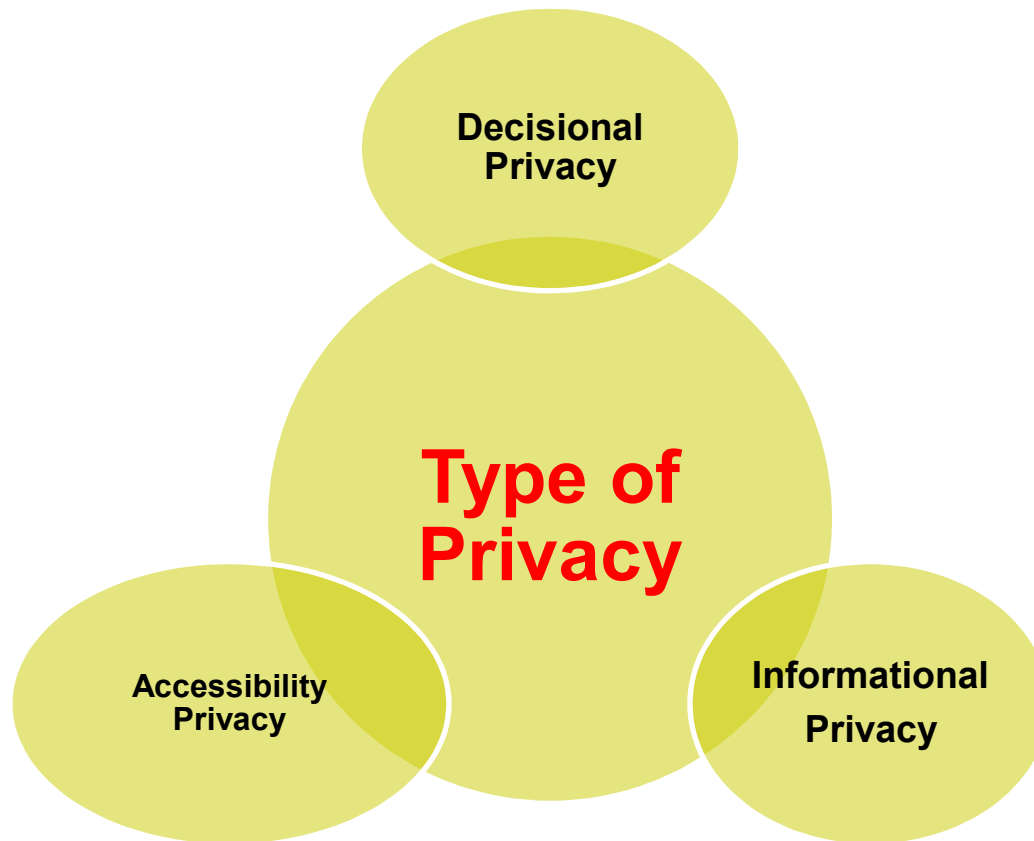
Charter of Fundamental Rights of the European Union, 2012:



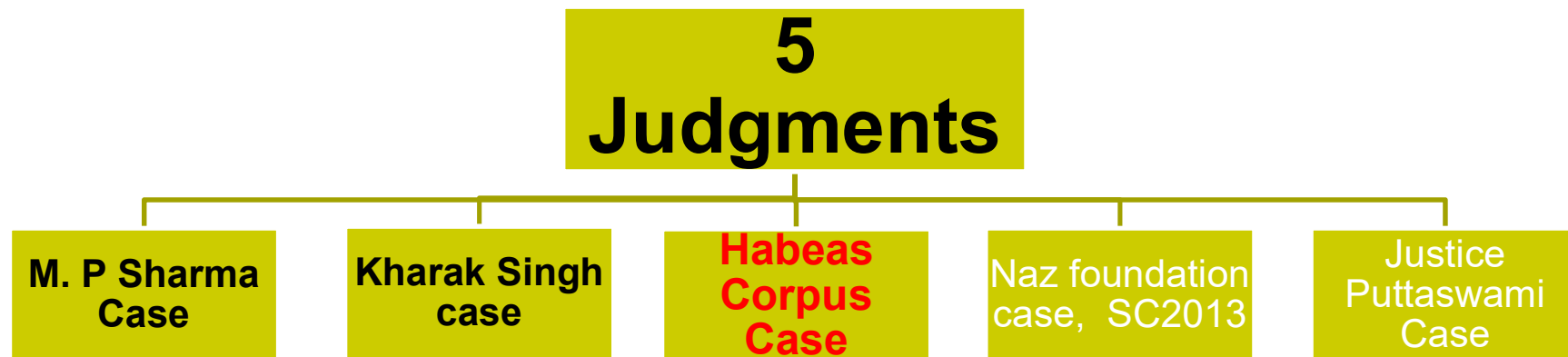
- Art. 7 and 8 of the Charter of Fundamental Rights of the European Union, 2012:
 - “recognizes the respect for
 - Private and family law
 - Home and
 - Communications

Art. 8 mandates: Protection of personal data and its collection for a specified legitimate purpose

Types of Privacy



Five Decisions



4 Cases





4 CASES

➤ CASE 1

- M.P. Sharma v Satish Chandra, 1952

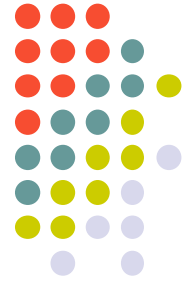
- 8 judge bench
- Right to privacy is not a Fundamental Right

➤ CASE 2

- Karak Singh v State of UP 1962

- 6 Judge bench
- Right to privacy is not a Fundamental Right

CASE 3



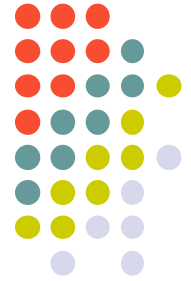
- ADM Jabalpur v Shivkant Shukla 1976
- Black Judgment
- SC refused to enforce the Fundamental Rights
- Gave authority to the State
- Right to Liberty abolished
- Emergency era



Case 4

- **Suresh Kumar v Naz Foundation, 2013**
 - Recriminalized Sec 377 of IPC
 - Regressive judgment

EVOLTION OF PRIVACY



- Earlier only attached only to property
- With the evolution of technology and democracy
- Notion Expanded
- Phone tapping
- Narco Test
- Truth Serum

K. Puttaswamy v UOI 2107



- 9 judge Bench
- Headed by J.S. Khehar
- Unequivocal Judgment
- No dissent
- Right to privacy is a Fundamental Right
- Intrinsic
- Derived
- Implied



ELEVATION

- EARLIER
- STATUTORY RIGHT
- CAN BE AMENDED EASILY
- NOW
- CONSTITUTIONAL RIGHT
- BRUTE MAJORITY NEEDED
- PART OF BASIC STRUCTURE



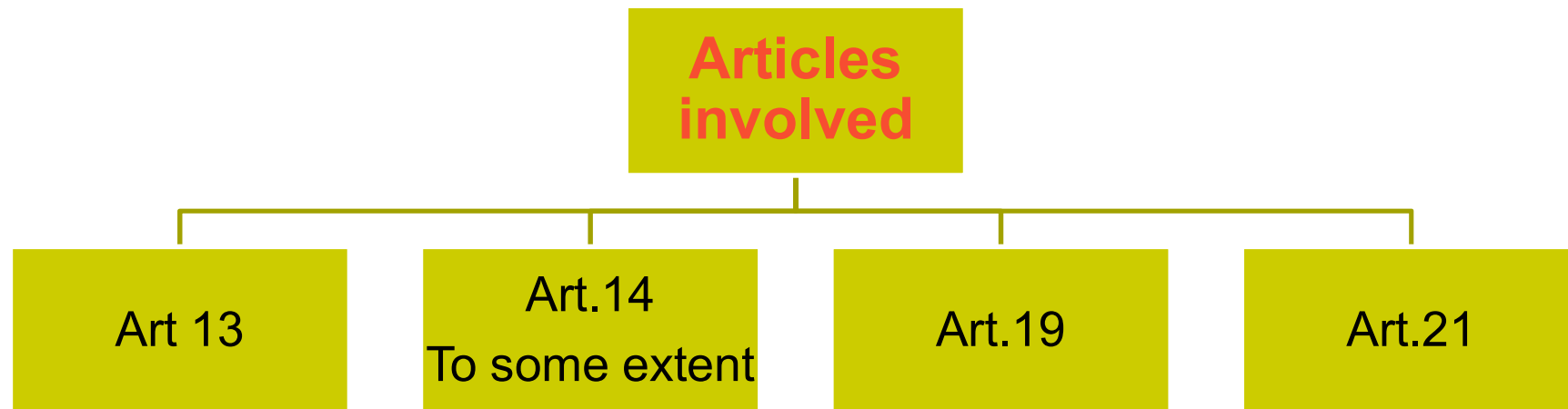
Myths Busted

- Privacy is not an elitist phenomenon- poor, Rich, Everyone
- Right to be Left Alone
- Left alone physically & Digitally
- Natural Right
- Not given by state
- Not given by Constitution
- Part of Natural Law

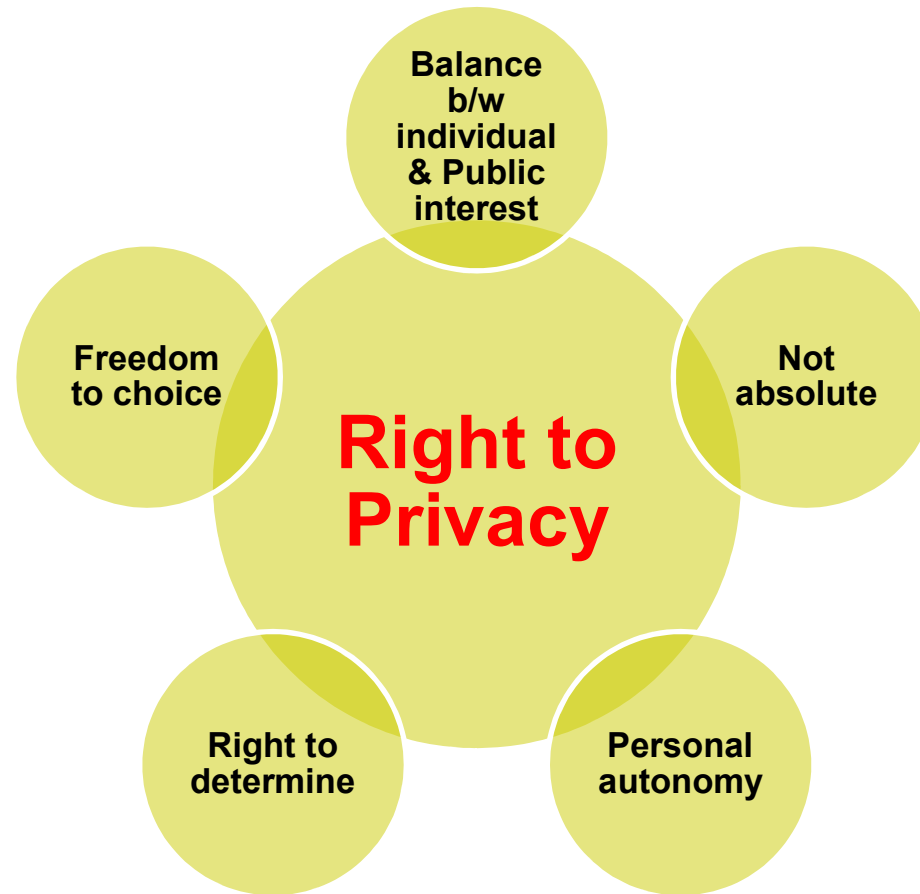
SEXUAL ORIENTATION

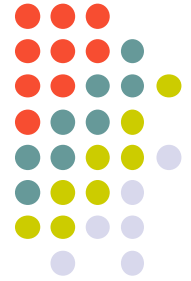
- Part of Privacy
- No restraint
- Set ground for removal of Art 377

Articles involved in Right to Privacy

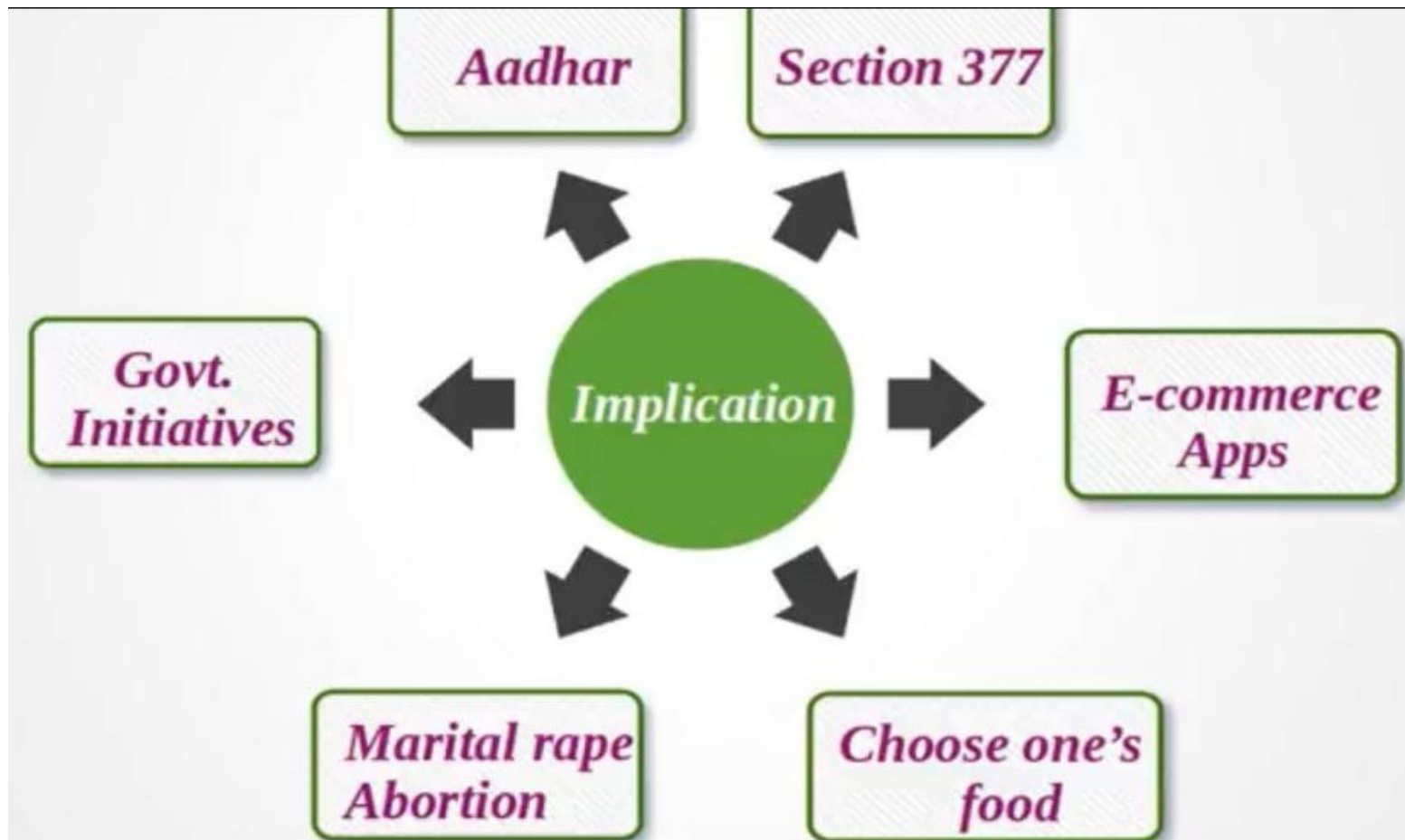


K Puttasmai v UOI



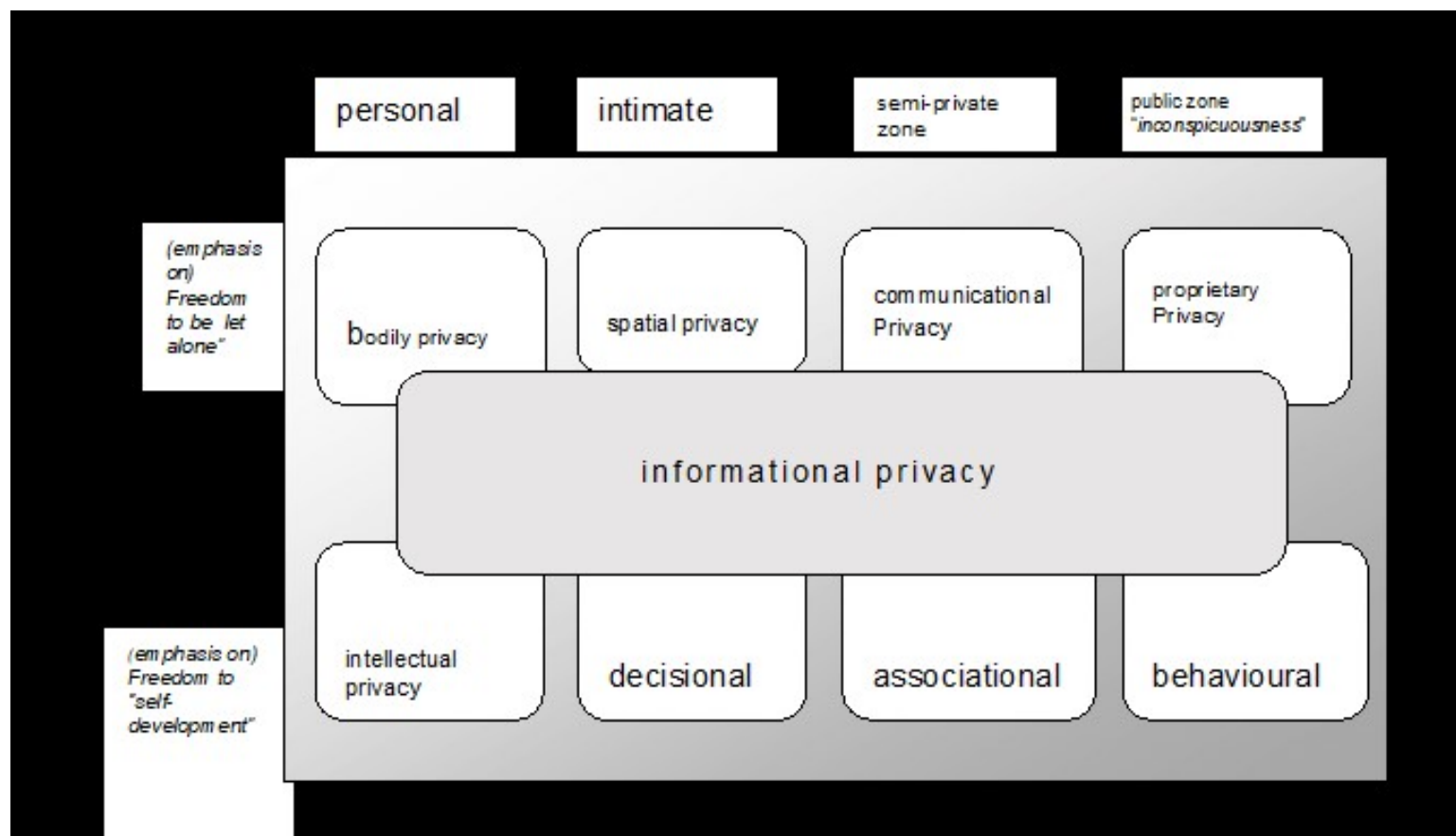


Implications





An info graphic from an article by Bert-Jaap Koops et al., “[A Typology of Privacy](#)” to illustrate the fundamental notions of privacy:



Privacy is a human Right



- A human right enjoyed by every human being by virtue of his or her existence
- Privacy extends to other aspects like including:
- Bodily integrity
- Personal autonomy,
- Informational self-determination,
- Protection from state surveillance,
- Dignity
- Confidentiality,
- Competed speech and freedom to dissent or move or think