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JUSTICE K.S. PUTTASWAMY V. UNION OF INDIA (2017)

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CITATION: AIR 2017 SC 4161; (2017) 10 SCC 1

INTRODUCTION:

The landmark judgment of Justice K.S. Puttaswamy (Retd.) v. Union of India, AIR 2017 SC 4161, is a significant moment in Indian constitutional history, as the Supreme Court unanimously recognised the right to privacy as a fundamental right under the Constitution.¹ The case was decided by a nine-judge Constitutional Bench, wherein the judgment overruled the earlier precedents and laid down the framework for future jurisprudence relating to data protection, data processing, and control over one's personal information.² This case commentary examines the factual background, legal issues raised, arguments of the parties, the judgment and its impact.

FACTUAL BACKGROUND:

The origin of this case can be traced back to the launch of the Aadhaar Scheme by the Indian government for using biometric identification to access welfare schemes. However, the Scheme soon gave rise to concerns regarding the collection and storage of biometric data without adequate data protection. The then Justice K.S. Puttaswamy (Retd.) filed a writ petition under Article 32 in 2012 challenging the constitutional validity of Aadhaar.³ He argued that the Indian Constitution protects the right to privacy as a fundamental right under Article 21. The Central Government based its arguments on earlier judgments in *M.P. Sharma v. Satish Chandra* (1954) and *Kharak Singh v. State of Uttar Pradesh* (1962), which did not recognise the right to privacy

¹ Krishnadas Rajagopal, *Right to Privacy is "intrinsic to life and liberty", rules SC*, The Hindu (Aug. 25, 2017), <https://www.thehindu.com/news/national/privacy-is-a-fundamental-right-under-article-21-rules-supreme-court/article62042245.ece>

² *Justice K.S. Puttaswamy (Retd.) v. Union of India*, AIR 2017 SC 4161.

³ *Id.*

as a fundamental right⁴. To resolve this substantial constitutional question of law, a nine-judge Constitutional Bench was constituted.

LEGAL ISSUES RAISED:

The substantial question of law was whether the Constitution recognises the right to privacy as a fundamental right. The specific issues raised by the nine-judge Constitutional Bench include:

- Whether the judgments in *M.P. Sharma* (1954) and *Kharak Singh* (1962) were correct, particularly in their ruling that the Constitution does not recognise a fundamental right to privacy?
- Whether the right to privacy can be inferred from the right to life and liberty under Article 21, and also from the freedoms provided under Article 19?
- Whether the right to privacy, if recognised as a fundamental right, is subject to reasonable restrictions, and what are the criteria that would apply to such restrictions?⁵

ARGUMENTS PRESENTED BY THE PARTIES:

In *Justice K.S. Puttaswamy (Retd.) v. Union of India*, the petitioners included Justice K.S. Puttaswamy, a retired judge of the Karnataka High Court, along with several others, including civil society activists, legal scholars, and public interest organisations. They challenged the constitutional validity of the Aadhaar Scheme, arguing that it violated the fundamental right to privacy. The respondents were the Union of India, defending the Aadhaar Scheme as a welfare-oriented legislative scheme in conformity with Constitutional provisions.

Petitioners' Arguments:

- The right to privacy is rooted in Articles 14, 19 and 21 of the Constitution.
- Privacy is vital for individual autonomy, human dignity, bodily integrity, and the right to secure informational self-determination.
- Global constitutional democracies like the USA, UK, and South Africa recognise privacy as an integral part of human dignity and personal liberty.

Respondent's Arguments:

⁴ *M.P. Sharma v. Satish Chandra*, 1954 SCR 1077; *Kharak Singh v. State of Uttar Pradesh*, (1964) 1 SCR 332.

⁵ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC, ¶¶ 5, 298, 325.

- There is no express constitutional provision for the right to privacy under the Indian Constitution.
- Aadhaar serves as a tool to promote transparency and ensure the efficient distribution of social welfare benefits.
- If the right to privacy is recognised as a fundamental right, it must be subject to reasonable limitations in the public interest.⁶

JUDGMENT AND REASONING:

The Supreme Court, without dissent, upheld the right to privacy as an integral aspect of the right to life and personal liberty under Article 21, as well as other fundamental rights. The judgments in *M.P. Sharma (1954)* and *Kharak Singh (1962)* were categorically overruled. The Court observed that privacy includes bodily integrity, control over one's personal information, and freedom to make personal decisions. The Court asserted that privacy is not reserved for the privileged, but a fundamental part of basic human dignity, personal liberty, and individual freedom.⁷

The Court introduced a three-part test for any restriction on privacy:

1. Legality;
2. Necessity; and
3. Proportionality.⁸

Multiple separate opinions were delivered:

- Justice Chandrachud stated that privacy includes both protection from State interference and a positive duty on the State to uphold it. He further emphasised that privacy is a precondition to the enjoyment of all fundamental rights.
- Justice Nariman focused on privacy in the digital era and the need for data protection laws.

⁶ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, AIR 2017 SC 4161, ¶¶ 40 -80, <https://indiankanoon.org/doc/91938676/>

⁷ Vrinda Bhandari et al., *An Analysis of Puttaswamy: The Supreme Court's Privacy Verdict*, 5 *IndraStra Global* 3 (2017), https://www.ssoar.info/ssoar/bitstream/handle/document/54766/ssoar-indrastraglobal-2017-11-bhandari_et_al-An_Analysis_of_Puttaswamy_The.pdf

⁸ *Id.* at 5

- Justice Kaul warned against the increasing surveillance by the State and highlighted the need for data protection laws to protect informational privacy and individual reputation.⁹

SIGNIFICANCE AND IMPACT:

The judgment had a significant impact on the Indian Constitutional Law. It opened the way for:

- The Aadhar Judgment (Puttaswamy v. Union of India, 2018) limited Aadhar use for social welfare benefits.
- The draft of the Personal Data Protection Bill and subsequently the Digital Personal Data Protection Act, 2023.
- Increased scrutiny of data surveillance activities and data misuse.¹⁰

This case highlighted India's commitment to human dignity, individual autonomy and constitutional morality. The case marked a shift towards a rights-based digital jurisprudence framework.

In the recent case, *Vibhor Garg v. Neha* (2025), the Supreme Court held that secretly recorded private phone conversations between spouses are admissible as evidence in matrimonial disputes, highlighting that the right to privacy is not absolute and must be balanced against the right to a fair trial.¹¹

CRITICAL ANALYSIS:

The judgment is an important step forward in Indian constitutional law. It is notable because it brings together ideas from different fields and looks at how other democracies handle similar issues. However, it also leaves some important questions unanswered, particularly about whether these rights apply between private individuals and how they can be enforced in real-

⁹ *Puttaswamy v. Union of India (I)*, *Global Freedom of Expression* (Columbia Univ.), <https://globalfreedomofexpression.columbia.edu/cases/puttaswamy-v-india/>

¹⁰ Centre for Communication Governance at National Law University Delhi, *The Surveillance Law Landscape in India and the Impact of Puttaswamy* (June 15, 2023), <https://globalnetworkinitiative.org/wp-content/uploads/2023/07/CCG-June-15.pdf?>

¹¹ Secret Recordings Between Husband and Wife a Sign of a Broken Relationship, Admissible in Court as Evidence: SC, *Economic Times* (July 24, 2025), <https://economictimes.indiatimes.com/news/new-updates/secret-recordings-between-husband-and-wife-a-sign-of-a-broken-relationship-admissible-in-court-as-evidence-sc/articleshow/122432334.cms>

life situations. The Court recognised the importance of having data protection laws, but it did not give any clear orders or set a timeframe for their implementation.¹²

CONCLUSION:

The Puttaswamy judgment changed how we understand privacy in the modern digital era. The Supreme Court affirmed what most of us already believed – that privacy is a fundamental right and not some elite privilege. In an era where technology tracks almost everything we do, the Court recognised that the Constitution cannot stay locked in the past. What distinguished this decision from others was not just its recognition of privacy rights, but the legal framework it established – any interference by the State must be legal, necessary, and proportionate. By overruling outdated precedents, the Court aligned the constitutional law with present-day realities. While some grey areas remain – particularly around misuse of private data – the judgment made one thing very clear: our Constitution must evolve with us, ensuring our dignity even as the digital world grows.

¹² Gautam Bhatia, *The Supreme Court's Right to Privacy Judgment – I: Foundations*, *Indian Const. L. & Phil.* (Aug 27, 2017), <https://indconlawphil.wordpress.com/2017/08/27/the-supreme-courts-right-to-privacy-judgment-i-foundations/>