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## Right to Privacy as a Fundamental Right: A Case Commentary on Justice

### **K.S. Puttaswamy (Retd.) v. Union of India (2017)**

*By Virat Choudhary*

#### **1. Introduction**

The judgment delivered in Justice **K.S. Puttaswamy v. Union of India (2017)** is considered one of the most transformative constitutional decisions in Indian legal history. Through this landmark judgment, the Supreme Court of India unanimously declared that the Right to Privacy is a Fundamental Right protected under Part III of the Constitution.<sup>1</sup> The case not only expanded the interpretation of **Article 21** but also strengthened the principles of liberty, dignity, and individual autonomy in a democratic society.

This case commentary critically examines the facts, issues, arguments, judgment, and constitutional significance of the decision.

#### **2. Background of the Case**

The controversy surrounding the Aadhaar Scheme initiated the constitutional debate regarding privacy rights in India. The Government of India introduced Aadhaar as a biometric identification system aimed at improving welfare delivery and reducing corruption in subsidy schemes. Citizens were required to provide fingerprints, iris scans, and demographic information to obtain Aadhaar numbers.

Justice K.S. Puttaswamy, a retired judge of the Karnataka High Court, challenged the constitutional validity of the Aadhaar Scheme before the Supreme Court. The petitioner argued that compulsory collection and storage of biometric data violated the privacy and personal liberty of individuals.

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<sup>1</sup> *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

The Union Government contended that the Constitution did not explicitly recognize privacy as a fundamental right. It relied upon earlier Supreme Court decisions such as **M.P. Sharma v. Satish Chandra and Kharak Singh v. State of Uttar Pradesh**, where privacy had either been denied constitutional protection or interpreted narrowly.<sup>2</sup>

Considering the constitutional importance of the issue, the matter was referred to a nine-judge Constitution Bench to determine whether privacy forms part of the Fundamental Rights guaranteed under the Constitution of India.

### **3. Facts of the Case**

The Aadhaar Scheme required citizens to submit personal biometric information for identity verification purposes. Over time, Aadhaar became increasingly linked with essential services such as banking, mobile connections, subsidies, and welfare benefits.

The petitioner argued that forcing citizens to disclose sensitive personal information without adequate safeguards could result in mass surveillance and misuse of data. It was further argued that informational privacy forms an inseparable aspect of personal liberty and dignity.

The government defended the scheme by claiming that Aadhaar served legitimate public interests such as efficient welfare distribution, elimination of duplicate beneficiaries, and prevention of fraud.

The central constitutional question before the Court was whether privacy could be recognized as a fundamental right despite the absence of an explicit constitutional provision.

### **4. Issues before the Court**

The Supreme Court considered the following important constitutional issues:

1. Whether the Right to Privacy is a Fundamental Right under the Constitution of India?
2. Whether privacy is protected under Article 21 and other provisions of Part III?
3. Whether previous judgments denying privacy protection were correctly decided?
4. Whether the State can impose restrictions on privacy in the interest of public welfare?

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<sup>2</sup> *M.P. Sharma v. Satish Chandra*, AIR 1954 SC 300; *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295.

5. Whether privacy could be derived from Articles 14, 19, and 21 despite not being expressly mentioned in the constitution?

## **5. Arguments Advanced by the Parties**

### **Arguments by the Petitioners**

The petitioners argued that privacy is intrinsic to human dignity, liberty, and autonomy. They submitted that Article 21 guarantees not merely animal existence but a dignified life. Privacy enables individuals to make personal choices regarding family, relationships, beliefs, food habits, and personal information.

The petitioners further argued that unchecked State surveillance threatens democracy itself. In the digital age, protection of personal data becomes necessary to preserve individual freedom.

It was also argued that constitutional interpretation must evolve with changing societal realities. Even though the Constitution does not expressly mention privacy, it can be derived from Articles 14, 19, and 21 collectively.<sup>3</sup>

### **Arguments by the Respondents**

The Union Government argued that privacy cannot be elevated to the status of a fundamental right because the Constitution does not expressly provide for it. It relied on earlier Supreme Court precedents which had rejected the existence of a general right to privacy.

The government also contended that privacy is not an absolute right and reasonable restrictions may be imposed in matters concerning national security, public interest, crime prevention, and welfare administration.

Further, the government emphasized that Aadhaar was introduced to ensure transparency and effective implementation of welfare schemes for economically weaker sections of society.

## **6. Judgment of the Supreme Court**

On 24 August 2017, the nine-judge Constitution Bench unanimously held that the Right to Privacy is a constitutionally protected Fundamental Right.

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<sup>3</sup> INDIA CONST. arts. 14, 19, 21.

The Court declared that privacy is intrinsic to life and personal liberty under Article 21 and is also connected to freedoms guaranteed under Part III of the Constitution. The judgment overruled earlier decisions in *M.P. Sharma and Kharak Singh* to the extent that they denied constitutional recognition to privacy.<sup>4</sup>

The Court observed that privacy includes multiple dimensions such as-

- Bodily privacy
- Informational privacy
- Decisional autonomy

The judges emphasized that dignity forms the foundation of all fundamental rights. Without privacy, individual freedom loses its true meaning.

The Court also clarified that privacy is not an absolute right. Any State restriction upon privacy must satisfy the tests of legality, legitimate State aim, proportionality, and procedural safeguards.

### **Ratio Decidendi**

The ratio of the judgment lies in the recognition that privacy is inseparable from human dignity and liberty. The Court held that constitutional rights must be interpreted broadly to preserve democratic values and individual freedoms.

The judgment established that-

- Privacy is a natural and inherent right
- Fundamental Rights are interconnected and cannot be interpreted narrowly
- The Constitution is a living document that must adapt to modern realities.<sup>5</sup>

The Court adopted a liberal and purposive interpretation of the Constitution to ensure effective protection of civil liberties in contemporary society.

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<sup>4</sup> *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

<sup>5</sup> *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1, page no. 119-121.

## 7. Critical Analysis

The judgment represents a progressive expansion of constitutional jurisprudence in India.<sup>6</sup> It reflects judicial sensitivity toward technological developments and increasing threats to personal autonomy in the digital age.

The decision also strengthened constitutional morality by protecting individual choices from arbitrary State interference. It later became the constitutional basis for several progressive judgments including the decriminalization of homosexuality in **Navtej Singh Johar v. Union of India** and the recognition of reproductive autonomy.<sup>7</sup>

However, certain challenges remain unresolved. While the Court recognized informational privacy, India still struggles with implementation of strong data protection mechanisms. Increasing digital surveillance and misuse of personal data continue to raise concerns regarding effective enforcement of privacy rights.<sup>8</sup>

Another criticism is that the judgment provided broad principles but left several practical questions unanswered, particularly concerning the balance between national security and individual privacy.

Despite these concerns, the judgment remains a remarkable constitutional achievement because it modernized Indian constitutional law in accordance with democratic and human rights values.

## 8. Impact of the Judgment

The Puttaswamy judgment has had far-reaching implications in Indian constitutional law and governance.

Firstly, it laid the foundation for data protection and digital privacy legislation in India.<sup>9</sup> The recognition of informational privacy became increasingly significant in the era of social media, artificial intelligence, and digital surveillance.

Secondly, the judgment strengthened civil liberties by affirming the importance of individual autonomy and decisional freedom.

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<sup>6</sup> M.P. Jain, *Indian Constitutional Law* 1520-24 (8<sup>th</sup> ed. 2018).

<sup>7</sup> *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

<sup>8</sup> Gautam Bhatia, *The Right to Privacy in India*, *Indian Constitutional Law Review* (2018).

<sup>9</sup> Law Commission of India, Report No. 276, *Legal Framework Relating to Privacy and Data Protection* (2018).

Thirdly, the judgment influenced later constitutional decisions concerning LGBTQ+ rights, reproductive choices, and personal dignity.

Finally, the judgment reaffirmed the role of the judiciary as the guardian of Fundamental Rights and constitutional values.

## 9. Conclusion

The judgment in Justice **K.S. Puttaswamy v. Union of India (2017)** is a constitutional milestone that transformed the understanding of liberty and dignity under the Indian Constitution. By recognizing privacy as a Fundamental Right, the Supreme Court ensured that constitutional protections remain relevant in an evolving digital society.

The decision reflects the idea that democracy is not merely about governance but also about protecting the autonomy and dignity of individuals. Even though challenges regarding implementation and data protection continue to exist, the judgment remains a powerful affirmation of constitutional freedoms in India.

In conclusion, the Puttaswamy judgment successfully balanced constitutional morality, human dignity, and modern democratic values, thereby becoming one of the most influential decisions in contemporary Indian jurisprudence

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