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Justice K. S. Puttaswamy (Retd.) and Anr. vs Union Of India And Ors

~ P. V. Visruth

Case Name: Justice K. S. Puttaswamy (Retd.) and Anr. vs Union Of India And Ors

Citation: 2019 (1) SCC 1

Court: Supreme Court of India

Corum: Justice D.Y. Chandrachud, Justice Abdul Nazeer , Justice Rohinton Nariman, Justice S.K. Kaul, Justice J.S. Khehar, Justice S.A. Bobde, Justice Jasti Chelameswar , Justice Abhay Sapre & Justice A.K. Sikri. (Nine Judge(s) Constitutional Bench).

I. Excerpt

"Privacy includes at its core the preservation of personal intimacies, the sanctity of family life, marriage, procreation, the home and sexual orientation. Privacy also connotes a right to be left alone. Privacy safeguards individual autonomy and recognises the ability of the individual to control vital aspects of his or her life."

Justice D.Y. Chandrachud, Puttaswamy v. Union of India, (2017) 10 SCC 1 (pg. 263 part T).

Keywords: Right to Privacy | Article 21 | Bodily Integrity | Sexual Orientation | Informational Privacy | Human Dignity | Data Protection

II. Introduction

The judgment in Justice K.S. Puttaswamy (Retd.) v. Union of India, delivered unanimously by a nine-judge Constitution Bench of the Supreme Court of India on 24 August 2017, stands as one of the most transformative constitutional decisions in the nation's legal history. Often referred to simply as the 'Privacy Judgment', the case did far more than declare privacy a fundamental right; it fundamentally reoriented the architecture of rights jurisprudence in India, breathing new life into freedoms that had long been fragmented, suppressed, or left unarticulated.

The catalyst for the reference was a constitutional challenge to the Aadhaar biometric identification scheme, which raised the question of whether the State could compel citizens to surrender their biometric data. However, the matter quickly expanded into a far more profound inquiry: does the Indian Constitution protect privacy as a fundamental right, and if so, what is the nature and extent of that protection? The question had been left unanswered or worse, answered incorrectly since *M.P. Sharma v. Satish Chandra* (1954) and *Kharak Singh v. State of Uttar Pradesh* (1963), both of which had suggested, in varying degrees that no such right existed.

III. Facts

Retired Justice K.S. Puttaswamy filed a writ petition in 2012 challenging the Aadhaar scheme, under which the government collected biometric data (fingerprints, iris scans, and demographic details) to issue unique identification numbers to citizens. The petitioners contended this violated the right to privacy. The Union of India countered that no such fundamental right existed, relying on *M.P. Sharma v. Satish Chandra* (1954) and *Kharak Singh v. State of Uttar Pradesh* (1963). Both judgments, decided by eight and six-judge benches respectively, had denied a constitutional right to privacy. Given the conflict with subsequent smaller bench decisions affirming privacy, including *Gobind v. State of Madhya Pradesh* (1975) and *R. Rajagopal v. State of Tamil Nadu* (1994), the matter was referred to a nine-judge bench.

IV. Issues

1. Whether the right to privacy is a fundamental right under Part III of the Constitution.
2. Whether M.P. Sharma and Kharak Singh, to the extent they denied this right, remained good law.
3. Whether the Aadhaar scheme violated fundamental rights, particularly Articles 14, 19, and 21.
4. What is the scope of privacy, and what test governs permissible State encroachment upon it?

V. Reasoning

All nine judges, through six concurring opinions, unanimously held that privacy is a fundamental right protected under Article 21, and further supported by Articles 14 and 19. The Court overruled M.P. Sharma and Kharak Singh, finding both rooted in the outdated A.K. Gopalan doctrine which treated fundamental rights as isolated silos a doctrine itself overruled in *R.C. Cooper v. Union of India* (1970) and *Maneka Gandhi v. Union of India* (1978). Justice Subba Rao's dissent in Kharak Singh, which had recognised privacy as implicit in liberty, was expressly approved.

The judgment's most enduring contribution lies in the additional rights and freedoms it brought to light. First, the Court recognised bodily integrity as a facet of privacy affirming that every individual holds an inviolable right over their own physical person. Drawing on *Suchita Srivastava v. Chandigarh Administration* (2009), it held that a woman's right to make reproductive choices to procreate or abstain is a dimension of personal liberty under Article 21, and no restriction can be placed on such choices without satisfying the strictest constitutional scrutiny. Privacy, dignity, and bodily integrity were held to be inseparable.

Second, the Court delivered a watershed ruling on the rights of LGBT persons. Justice Chandrachud held that sexual orientation is an essential attribute of privacy and identity, and that discrimination on its basis is deeply offensive to individual dignity. The rights of the LGBT community were declared real rights not 'so-called' rights founded on sound constitutional doctrine, inhering in the right to life and dwelling in privacy and dignity. The Court sharply

criticized *Suresh Kumar Koushal v. Naz Foundation (2014)*, which had upheld Section 377 IPC, repudiating its characterization of LGBT rights as peripheral. Though the validity of Section 377 was left for a larger bench, this reasoning directly enabled its decriminalization in *Navtej Singh Johar v. Union of India (2018)*.

Third, the Court recognised informational privacy the right of individuals to control what personal data enters the public domain. It held that the more intimate the information, the stronger the individual's claim to control its dissemination. Justice S.K. Kaul additionally articulated the right to be forgotten, recognising an individual's entitlement to have outdated or damaging personal information removed from public platforms where it no longer serves a legitimate purpose. These principles laid the normative foundation for India's data protection framework.

Finally, the Court established a three-fold test for permissible State interference with privacy: the restriction must be;

(I) sanctioned by law	(II) in pursuit of a legitimate State aim	(III) necessary and proportionate to that aim
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This proportionality standard marked a doctrinal evolution beyond the minimal 'procedure established by law' threshold under Article 21, aligning Indian constitutional law with international human rights standards.

VI. Impact

The judgment's impact has been immediate and far-reaching. In *Navtej Singh Johar (2018)*, the Supreme Court struck down Section 377 IPC as it applied to consensual acts between adults, directly relying on Puttaswamy's privacy and dignity framework. The recognition of informational privacy catalyzed India's first comprehensive data protection legislation the **Digital Personal Data Protection Act, 2023**. The proportionality test articulated in the judgment has become the governing standard in fundamental rights adjudication across Indian courts. The ruling's emphasis on dignity and autonomy has also strengthened the legal position of women in reproductive health litigation and challenges to non-consensual medical procedures.

VII. Conclusion

Puttaswamy is not simply a case about privacy. It is a case about constitutional identity the right of every individual to author their own life, free from arbitrary State intrusion. By grounding privacy in dignity and liberty, the Court gave enforceable form to freedoms that had long existed in constitutional text but not in constitutional practice. Its forward-looking vision anticipating the dangers of biometric surveillance, data harvesting, and digital profiling makes it a judgment that speaks as powerfully to the present as it did to 2017. The rights it illuminated: bodily integrity, reproductive autonomy, sexual orientation, and informational self-determination, are not new rights. They are the Constitution finally seen whole

VIII. References

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- V. Maneka Gandhi v. Union of India, (1978) 1 SCC 248.
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