

**K.S. PUTTASWAMY V. UNION OF INDIA (2017):
LEGAL STANDARDS OF PRIVACY IN THE INDIAN CONSTITUTIONAL
FRAMEWORK**

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ABSTRACT

The Supreme Court's landmark judgment in K.S. Puttaswamy v. Union of India (2017) fundamentally transformed Indian constitutional law by affirming the Right to Privacy as a constitutionally protected fundamental right. Delivered by a unanimous nine-judge bench, the decision overturned the earlier restrictive precedents in M.P. Sharma v. Satish Chandra (1954) and Kharak Singh v. State of Uttar Pradesh (1962), establishing privacy as intrinsic to dignity, liberty, and autonomy under Articles 14, 19, and 21. Arising from the constitutional challenge to the Aadhaar biometric identification scheme, the judgment expanded the meaning of privacy to include physical, informational, and decisional dimensions. The Court emphasized constitutional morality, human dignity, and the transformative vision of the Constitution, holding that any infringement of privacy must satisfy the tests of legality, necessity, and proportionality. This decision redefined the contours of State power, particularly in the context of digital governance and surveillance, and strengthened the protection of individual rights in an evolving technological environment.

Keywords: Right to Privacy, Fundamental Rights, Article 21, Aadhaar Scheme, Biometric Data, Constitutional Morality, Human Dignity, Informational Privacy, Supreme Court of India, Proportionality Test, Surveillance and Data Protection, Transformative Constitutionalism

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INTRODUCTION

The landmark judgment in *K.S. Puttaswamy v. Union of India* (2017)² stands as a monumental declaration in Indian constitutional jurisprudence, affirming the Right to Privacy as a fundamental right under the Constitution of India. Delivered by a nine-judge bench of the Supreme Court, this decision profoundly reshaped the constitutional understanding of individual liberty, dignity, and autonomy. It marked a transformative moment where the Court reasserted the importance of personal liberty in an era increasingly dominated by surveillance technologies and state-driven data collection mechanisms.

The case arose in the backdrop of the Government's Aadhaar project, which sought to collect biometric and demographic information of citizens for identity verification. The petitioner, Justice K.S. Puttaswamy, a retired judge of the Karnataka High Court, challenged the constitutionality of this initiative, arguing that it violated the fundamental right to privacy. The State, on the other hand, contended that privacy was not a guaranteed right under the Constitution, relying on earlier precedents such as *M.P. Sharma v. Satish Chandra* (1954)³ and *Kharak Singh v. State of Uttar Pradesh* (1962)⁴, which denied privacy the status of a fundamental right.

In addressing this challenge, the Supreme Court did not merely answer whether privacy was a constitutionally protected right but undertook an expansive interpretation of the concept of "liberty" under Article 21⁵, and of "freedom" and "dignity" as integral to the constitutional order. The judgment thus harmonized the evolving doctrines of constitutional morality, human dignity, and informational self-determination within the Indian legal framework.

BACKGROUND AND FACTS OF THE CASE

The genesis of *K.S. Puttaswamy v. Union of India* lies in the constitutional debate concerning the legitimacy of the Aadhaar Scheme, a nationwide biometric identification program introduced by the Government of India in 2009⁶. The project sought to collect biometric data, including fingerprints and iris scans, from individuals to create a unique identity number known as the

² *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1 (India).

³ *M.P. Sharma v. Satish Chandra*, AIR 1954 SC 300 (India).

⁴ *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295 (India)

⁵ *India Const.* art. 21.

⁶ *Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act*, No. 18 of 2016, India Code.

Aadhaar number for facilitating welfare distribution and eliminating duplication in governmental schemes.

Justice K.S. Puttaswamy, a retired judge of the Karnataka High Court, filed a writ petition under Article 32⁷ of the Constitution in 2012, contending that the Aadhaar project violated the fundamental right to privacy. The petitioner argued that the collection and storage of personal data without adequate safeguards amounted to an unconstitutional invasion of individual autonomy and dignity. The challenge was initially heard by a three-judge bench, which referred the matter to a larger bench due to conflicting precedents on whether the right to privacy constituted a fundamental right.

This referral was necessitated by two earlier decisions of the Supreme Court: **M.P. Sharma v. Satish Chandra (1954)** and **Kharak Singh v. State of Uttar Pradesh (1962)**⁸. In *M.P. Sharma*, an eight-judge bench had held that the Constitution did not explicitly guarantee a right to privacy while dealing with search and seizure provisions. Similarly, in *Kharak Singh*⁹, a six-judge bench struck down domiciliary visits as unconstitutional but held that the Constitution did not recognize privacy as a fundamental right. These precedents, being of coordinate or larger bench strength, continued to cast doubt on the constitutional status of privacy in India.

As the Aadhaar scheme expanded, concerns regarding surveillance, data misuse, and unauthorized profiling intensified. Critics warned that the centralized database posed grave risks to personal liberty and could be exploited for political or commercial purposes. The petitioners contended that in a constitutional democracy, the right to privacy forms the cornerstone of personal freedom, essential to the enjoyment of other fundamental rights, including freedom of speech, movement, and religion.

The union of India, however, defended the scheme on the grounds of administrative efficiency and public welfare. The government maintained that privacy was not an enumerated right under the Constitution and that the collection of biometric data was justified in the larger public interest of ensuring transparency and curbing corruption in welfare delivery.

Given the constitutional importance of the question, a nine-judge bench was constituted to determine whether the right to privacy was protected as a fundamental right under the Constitution of India. The Court's task was not merely interpretative but foundational—it had to

⁷ *India Const.* art. 32.

⁸ *M.P. Sharma*, supra note 3

⁹ *Kharak Singh*, supra note 4.

decide whether privacy could be read into the guarantees of Part III of the Constitution, particularly Articles 14, 19, and 21. This inquiry also required reconciling older constitutional interpretations with contemporary human rights values.

The proceedings before the Court were extensive and multifaceted, involving arguments from the Attorney General, senior advocates, and amicus curiae on the philosophical, legal, and comparative dimensions of privacy. The judgment ultimately became a watershed moment in Indian constitutional history, setting the stage for redefining the relationship between the State and the individual in the digital age.

ISSUES BEFORE THE COURT

The principal issue before the Supreme Court in *K.S. Puttaswamy v. Union of India* was to determine whether the Right to Privacy is guaranteed as a fundamental right under the Constitution of India. However, this central question unfolded into several interrelated sub-issues that required constitutional interpretation of significant depth and nuance.

The following were the primary issues framed for adjudication:

1. Whether the Right to Privacy is protected under the Constitution of India as an independent fundamental right or as a part of the rights guaranteed under Part III of the Constitution.
2. Whether the earlier decisions in *M.P. Sharma v. Satish Chandra* (1954) and *Kharak Singh v. State of Uttar Pradesh* (1962), which denied the existence of a fundamental right to privacy, were correctly decided.
3. What is the scope and content of the Right to Privacy if recognized as a fundamental right.
4. Whether the recognition of a fundamental right to privacy would affect the validity of existing laws and government programs, particularly the Aadhaar Scheme.
5. How to balance the Right to Privacy with other competing interests such as national security, public order, and the right to information.

ARGUMENTS OF THE PARTIES

The proceedings in *K.S. Puttaswamy v. Union of India* witnessed some of the most profound constitutional arguments in the history of Indian jurisprudence. The petitioners and the Union of India advanced sharply contrasting views on the existence, scope, and limitations of the right to privacy, each relying on constitutional philosophy, judicial precedent, and comparative jurisprudence.

Arguments on behalf of the Petitioners

The petitioners, led by senior counsels argued that the Right to Privacy is an inseparable facet of the Right to Life and Personal Liberty under Article 21. They contended that privacy is inherent in the idea of human dignity and autonomy, forming the foundation for the enjoyment of all other fundamental rights.

1. Privacy as an Intrinsic Constitutional Value:

The petitioners emphasized that the Constitution is a living document and its interpretation must evolve with changing societal and technological contexts. They argued that privacy, though not explicitly mentioned, is implicit in the guarantees of **personal liberty, freedom of movement, expression, and association enshrined in Part III. The right to make intimate decisions such as reproductive choices, family life,** or control over personal information emanates from the broader guarantees of liberty and dignity.

2. Reconsideration of Precedents:

The petitioners urged the Court to overrule M.P. Sharma and Kharak Singh, stating that both judgments were delivered in the early years of constitutional interpretation when the understanding of fundamental rights was narrow and formalistic. Subsequent decisions, such as **Maneka Gandhi v. Union of India (1978)**¹⁰, had expanded the meaning of **Article 21** by linking it with Articles 14 and 19, thereby creating a unified constitutional doctrine of liberty. Hence, older precedents that failed to appreciate this integrated approach should no longer be binding.

3. Informational and Decisional Privacy:

The petitioners highlighted that in the digital age, privacy extends beyond physical intrusions to include control over personal data and decisions. They warned that unrestricted State collection of biometric and demographic data could lead to surveillance, profiling, and violation of informational self-determination, eroding the individual's autonomy.

4. International Human Rights Obligations:

It was further argued that India, as a signatory to international conventions such as the Universal Declaration of Human Rights (Article 12)¹¹ and the International Covenant on Civil and Political

¹⁰ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (India).

¹¹ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 (Dec. 10, 1948).

Rights (Article 17)¹², has an obligation to uphold the right to privacy as part of its constitutional commitments to human rights.

5. Constitutional Morality and Human Dignity:

Drawing from the principles of constitutional morality, the petitioners submitted that the right to privacy is essential to safeguard individual dignity and prevent the State from exercising arbitrary control over personal life. They argued that democracy is meaningful only when citizens are free from constant surveillance and coercion.

Arguments on behalf of the Union of India

The Union of India, represented by the Attorney General, contested the recognition of privacy as a fundamental right, advancing arguments rooted in constitutional text and public policy considerations.

1. Absence of Explicit Constitutional Recognition:

The Attorney General submitted that the Constitution of India does not expressly guarantee a right to privacy. Since fundamental rights are enumerated and exhaustively listed in Part III, it was contended that courts should not read into the Constitution rights that were deliberately excluded by the framers.

2. Binding Nature of Earlier Precedents:

The State relied heavily on *M.P. Sharma* and *Kharak Singh*, both of which were decided by larger benches, to argue that privacy had been expressly excluded from the ambit of fundamental rights. Unless overruled by an even larger bench, these decisions, it was argued, continued to hold binding authority.

3. Public Interest and Welfare:

The State justified the Aadhaar project as a legitimate means of ensuring targeted delivery of welfare benefits, reducing corruption, and preventing identity fraud. It contended that even if privacy were recognized as a right, it could not be absolute and must yield to compelling public interests, especially where the State acts to promote social and economic justice.

4. Doctrine of Reasonable Restriction:

The Union argued that recognizing privacy as an absolute right would paralyze governmental functions in areas such as law enforcement, taxation, and national security. The State emphasized

¹² International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171.

that individual rights must be balanced against collective welfare, and that data collection for administrative purposes did not, per se, constitute an infringement of privacy.

5. Legislative Competence and Separation of Powers:

It was further contended that questions of privacy regulation and data protection are matters of legislative policy, not judicial interpretation. The Court, therefore, should refrain from expanding the scope of fundamental rights in a manner that encroaches upon the domain of Parliament.

Rebuttal by the Petitioners

In response, the petitioners reiterated that the Constitution, being a transformative document, must be interpreted purposively to give full effect to the ideals of liberty and dignity. They emphasized that judicial recognition of privacy would not impede governance but rather impose constitutional discipline upon the exercise of State power. The petitioners argued that constitutional rights cannot be sacrificed on the altar of administrative convenience or efficiency.

JUDGMENT OF THE COURT

The nine-judge bench of the Supreme Court delivered a unanimous verdict, unequivocally declaring that the Right to Privacy is a fundamental right protected under Part III of the Constitution. The Court held that privacy is intrinsic to the right to life and personal liberty guaranteed under Article 21, and also forms part of the freedoms guaranteed under Articles 14 and 19. Key Findings of the Court

1. Privacy as a Natural and Inalienable Right

The Court recognized privacy as an inherent aspect of human existence, preceding the Constitution itself. Justice D.Y. Chandrachud, writing the leading opinion, observed that the right to privacy is not bestowed by the State but is an essential part of human dignity and liberty. The Constitution merely recognizes and protects this pre-existing right.

2. Overruling of M.P. Sharma and Kharak Singh

The Court held that these earlier decisions were based on a narrow and outdated interpretation of fundamental rights. By affirming that privacy is intrinsic to life and liberty, the Court corrected a long-standing constitutional omission, harmonizing Indian jurisprudence with the progressive evolution of human rights.

3. Privacy as an Intrinsic Facet of Life, Liberty, and Dignity

The judgment emphasized that privacy is integral to personal autonomy and the ability to make decisions regarding one's body, identity, and relationships. It observed that without privacy, the

guarantees of freedom of expression, association, and movement would be rendered meaningless.

4. Dimensions of Privacy

The Court conceptualized privacy as comprising three interconnected dimensions:

- Physical Privacy, protecting an individual's body and physical space from intrusion.
- Informational Privacy, safeguarding personal data and communications from unauthorized access or misuse.
- Decisional Privacy, ensuring autonomy in making intimate personal choices, including reproductive rights, sexual orientation, and family life.

5. Test of Limitation and Reasonableness

The Court clarified that while privacy is a fundamental right, it is not absolute. Any restriction on this right must satisfy the principles of legality, necessity, and proportionality. The State must demonstrate that an invasion of privacy serves a legitimate aim, is authorized by law, and is the least intrusive means of achieving that purpose.

6. Constitutional Morality and Transformative Vision

The judgment invoked the doctrine of constitutional morality, emphasizing that the Constitution is not a static document but a living instrument designed to foster individual dignity and liberty. Justice Nariman described privacy as an “inalienable core” of human existence, while Justice Chelameswar linked it to the “right to be left alone.”

7. Relationship with Other Fundamental Rights

The Court observed that privacy acts as a condition precedent for the enjoyment of other rights under Part III. It is the foundation for the exercise of freedom of thought, speech, belief, and association. Hence, privacy is not an isolated right but a structural pillar supporting the entire constitutional edifice of liberty.

8. Implications for State Power and Surveillance

The Court cautioned that while the State may collect data for legitimate governance objectives, such powers must not degenerate into instruments of surveillance or coercion. It underscored that informational privacy assumes critical significance in the digital age, where technology enables unprecedented intrusions into personal life.

The judgment thus represented a comprehensive affirmation of privacy as a core constitutional value, marking a turning point in the relationship between the State and the citizen.

CONCLUSION

The judgment in *K.S. Puttaswamy v. Union of India* (2017) stands as a constitutional milestone, reaffirming the supremacy of individual dignity in the face of technological modernity and expanding State power. By recognizing privacy as a fundamental right, the Supreme Court fortified the moral and philosophical foundation of the Indian Constitution, aligning it with global human rights jurisprudence.

Ultimately, *K.S. Puttaswamy* reaffirmed that liberty and dignity are not gifts of the State but inherent attributes of human existence. The decision thus enshrines the principle that the Constitution protects the individual from the overwhelming might of the State, preserving the delicate balance between governance and freedom that defines a just and humane society.

