CASE COMMENT: K.S. PUTTASWAMY V. UNION OF INDIA

Anuja T Arjun, Bharata Mata School of Legal Studies (BSOLS)

CITATION: AIR 2017 SC 4161

DATE OF JUDGMENT: August 24, 2017

BENCH: Chief Justice, A.K. Sikri, A.M. Khanwilkar, D.Y. Chandrachud, Ashok Bhushan

ABSTRACT

The recognition of privacy as a fundamental right by the Supreme Court of India in *Justice K.S. Puttaswamy (Retd.) v. Union of India* represents a transformative development in Indian constitutional law. The nine-judge Constitution Bench unanimously held that privacy is constitutionally protected as an intrinsic part of the right to life and personal liberty under Article 21 and as part of the freedoms guaranteed under Part III of the Constitution. The judgment arose against the background of constitutional challenges to the Aadhaar scheme but ultimately addressed the larger question of whether the Constitution protects a right to privacy. This commentary examines the constitutional reasoning adopted by the Court, particularly its connection of privacy with dignity, autonomy, liberty and informational self-determination. It further analyses the Court's recognition that privacy extends beyond physical spaces to bodily, decisional and informational domains. The commentary argues that *Puttaswamy* is significant not merely because it recognised privacy as a fundamental right, but because it placed individual autonomy at the centre of constitutional governance. At the same time, the judgment's broad conceptualisation of privacy leaves several questions concerning the precise scope of informational privacy and the obligations of non-State actors to subsequent judicial and legislative development.

Keywords: Right to Privacy, *K.S. Puttaswamy*, Article 21, Constitutional Law, Human Dignity, Informational Privacy, Autonomy, Proportionality.

1. Introduction

The Supreme Court's decision in *Justice K.S. Puttaswamy (Retd.) v. Union of India* marks a watershed in Indian constitutional jurisprudence.[1] A nine-judge Bench unanimously recognized privacy as a constitutionally protected fundamental right, holding that it forms an intrinsic part of the right to life and personal liberty under Article 21 and that it also emerges from the freedoms guaranteed by Part III of the Constitution. The decision was delivered on 24 August 2017 in the context of proceedings concerning the constitutional validity of the Aadhaar scheme. However, the question ultimately placed before the Bench was considerably broader: whether the Constitution of India recognizes a fundamental right to privacy.

The Supreme Court's decision in Justice K.S. Puttaswamy (Retd.) v. Union of India lies in the Court's rejection of a narrow understanding of privacy as merely protection against physical intrusion. Instead, the Court perceived privacy as a constitutional value closely tied to dignity, autonomy, liberty, and an individual's ability to make fundamental choices about their own life. In doing so, Puttaswamy provided constitutional recognition to a sphere of individual existence that the State cannot enter arbitrarily.

The judgment is particularly important in a society that is increasingly shaped by digital technologies, biometric identification, data collection, artificial intelligence, and surveillance. The Court's recognition of informational privacy therefore has implications extending well beyond the facts of the litigation.

2. Facts of the Case

The proceedings originated from challenges concerning the Aadhaar scheme, under which the State collected demographic and biometric information for purposes of establishing identity and facilitating access to governmental benefits and services. Justice K.S. Puttaswamy, a retired judge of the Karnataka High Court, questioned the constitutional validity of aspects of the scheme and raised concerns relating to privacy.[2]

During the proceedings, an important preliminary constitutional question emerged: whether privacy was itself protected as a fundamental right under the Constitution. This question

[1] *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.
[2] Id.

became significant because earlier decisions had expressed doubts regarding the constitutional status of privacy.

In *M.P. Sharma v. Satish Chandra*, an eight-judge Bench had held that the Constitution did not contain a protection equivalent to the Fourth Amendment of the United States Constitution and did not recognise a general right to privacy.[3] Subsequently, in *Kharak Singh v. State of Uttar Pradesh*, a six-judge Bench considered the constitutional validity of police surveillance and similarly stated that privacy was not a guaranteed fundamental right, although certain forms of domiciliary surveillance were invalidated.[4]

Later decisions of the Supreme Court, however, increasingly recognised privacy as an aspect of Article 21. These included decisions such as *Gobind v. State of Madhya Pradesh*, *R. Rajagopal v. State of Tamil Nadu* and *People's Union for Civil Liberties v. Union of India*.[5]Since these later decisions had been rendered by smaller Benches, the conflict with the earlier larger-Bench decisions necessitated authoritative reconsideration by a larger Bench. Consequently, the matter was referred to a nine-judge Constitution Bench.

3. Issues Before the Court

The principal issue before the Court was whether the Constitution guarantees a fundamental right to privacy. This question necessarily required the Court to determine whether privacy could be derived from Article 21 and other fundamental rights even though the Constitution does not expressly use the term "privacy." The Court also had to determine the correctness of the earlier decisions in *M.P. Sharma* and *Kharak Singh* insofar as they denied constitutional protection to privacy.

The issue was therefore not simply whether a person could prevent the State from entering his or her home. It concerned the broader constitutional relationship between the individual and the State and the extent to which individuals possess autonomy over their bodies, choices, relationships and personal information.

[3] *M.P. Sharma v. Satish Chandra*, AIR 1954 SC 300.
[4] *Kharak Singh v. State of U.P.*, AIR 1963 SC 1295.
[5] *Gobind v. State of M.P.*, (1975) 2 SCC 148; *R. Rajagopal v. State of T.N.*, (1994) 6 SCC 632 ; *People's Union for Civil Liberties v. Union of India*, (1997) 1 SCC 301.

4. Judgment and Constitutional Reasoning

4.1 Recognition of Privacy as a Fundamental Right

The nine-judge Bench unanimously held that privacy is constitutionally protected. The Court expressly overruled *M.P. Sharma* to the extent that it denied constitutional protection to privacy and overruled the corresponding portion of *Kharak Singh*.

The Court held that privacy is protected as an intrinsic part of Article 21 and as part of the freedoms guaranteed by Part III. Importantly, the Court did not treat privacy as an isolated or newly created right. Instead, it understood privacy as emerging from the constitutional guarantees of liberty, dignity and freedom.

Justice D.Y. Chandrachud's judgment emphasised that privacy attaches to the person rather than merely to a physical place. This represented a significant conceptual shift. Privacy could no longer be reduced to the protection of one's home or personal space; it followed the individual and protected aspects of individual existence wherever constitutional liberty demanded protection.

4.2 Privacy, Dignity and Autonomy

A central contribution of *Puttaswamy* is its close connection between privacy and human dignity. The Court recognised that dignity is not merely an abstract constitutional aspiration but an essential component of individual liberty. Privacy creates a protected sphere within which an individual can develop his or her personality and make meaningful choices. The Court consequently associated privacy with bodily integrity, personal autonomy and decisional freedom. Matters involving marriage, procreation, family life, sexual orientation, faith, food and other personal choices were recognised as falling within the broader sphere of privacy.

This line of reasoning represents a monumental jurisprudential shift because it moves away from a purely negative conception of liberty. Privacy is not simply a right to be left alone. It also protects the positive capacity of individuals to make choices concerning their own lives. The Court thereby placed the individual at the centre of constitutional protection. The State may regulate conduct in pursuit of legitimate constitutional objectives, but such regulation cannot automatically extinguish personal autonomy.

4.3 Informational Privacy

Another crucial facet of the judgment is its recognition of informational privacy. The Court acknowledged that technological development has fundamentally altered the nature of personal information. In an information-based society, individuals constantly generate data through communication, financial transactions, healthcare, biometric identification and digital activity.

Consequently, privacy cannot be adequately protected merely through physical boundaries. Control over personal information becomes an essential component of individual autonomy. The judgment recognised informational privacy as an important constitutional concern and noted the dangers associated with the aggregation and use of personal data.

This aspect has acquired particular significance in the contemporary digital environment. Large-scale data collection, algorithmic decision-making, facial recognition, artificial intelligence and digital surveillance have created forms of intrusion that were largely unknown when the Constitution was adopted. The judgment therefore provides a constitutional foundation for examining whether the collection, retention and processing of personal information respect individual autonomy and dignity.

5. The Constitutional Limits on Privacy

The Court did not treat privacy as an absolute right. Instead, it recognised that constitutional rights may be subject to legitimate restrictions. An invasion of privacy must satisfy a three-fold requirement: **legality, legitimate State aim or need, and proportionality**. First, there must be a valid law authorising the interference. Second, the interference must pursue a legitimate State objective. Third, the means adopted must bear a rational relationship with that objective and must not impose a disproportionate burden upon the protected right.

The proportionality requirement is particularly important because it prevents governmental convenience from automatically becoming sufficient justification for interference with fundamental rights. The State must demonstrate not merely that an objective is legitimate but also that the means adopted to achieve it are constitutionally appropriate. This framework consequently establishes a constitutional balance between individual autonomy and legitimate governmental interests.

6. Critical Analysis

The principal strength of *Puttaswamy* lies in its recognition that privacy cannot be reduced to secrecy. An individual may have nothing to conceal and nevertheless possess a legitimate constitutional interest in controlling personal information and making intimate decisions without any unjustified interference.

The Court's understanding of privacy as multidimensional is also appropriate for a modern constitutional democracy. Physical privacy, bodily privacy, decisional autonomy and informational privacy cannot realistically be separated in contemporary life. The judgment is also significant for marginalised individuals. Privacy is sometimes criticised as an individualistic or elitist concept, but the Court rejected such a limited understanding. For persons who lack social or economic power, the ability to control personal choices and protect one's body, identity and information may be particularly important. Constitutional privacy therefore has a broader social dimension.

Nevertheless, the judgment also leaves certain questions unresolved. The Court deliberately avoided providing an exhaustive definition of privacy. While this flexibility allows constitutional doctrine to respond to new circumstances, it may also produce uncertainty concerning the precise boundaries of the right. Another unresolved dimension concerns the horizontal application of privacy. While several opinions recognised the growing significance of private entities in the digital environment, the precise constitutional obligations of non-State actors remain a complex area of development.

8. Conclusion

Justice K.S. Puttaswamy (Retd.) v. Union of India represents a decisive moment in the development of Indian constitutional law. By unanimously recognising privacy as a fundamental right, the Supreme Court moved Indian constitutional jurisprudence beyond the narrow conception of privacy reflected in earlier decisions.

The judgment established that privacy is inseparably connected with dignity, autonomy, liberty and personal choice. It also recognised informational privacy as an increasingly important component of constitutional protection in an information-driven society. Its greatest contribution, therefore, is not merely the declaration that privacy is a fundamental right. It is

the constitutional recognition that individuals possess a protected sphere of autonomy within which they can develop their identity and make meaningful choices concerning their lives.

At the same time, the judgment's broad conception of privacy leaves important questions for future courts and legislatures, particularly concerning informational privacy, surveillance, data protection and the responsibilities of private actors. Nevertheless, *Puttaswamy* provides the constitutional foundation for confronting these emerging challenges.

In an era in which technology increasingly determines how individuals are identified, monitored and represented, the judgment's central principle remains particularly significant: constitutional liberty requires not merely freedom from physical restraint, but the preservation of a meaningful sphere of individual autonomy and dignity.