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CASE COMMENTARY ON JUSTICE
K.S.PUTTASWAMY (RETD) AND ANR. VS UNION OF
INDIA AND ORS.

AUTHORED BY - SAHIL KIRAN GOKHALE

1. **Title:-** Justice K. S. Puttaswamy (Retd.) & Anr. v. Union of India & Ors.
2. **Coram:-** A nine-Judge Bench of the Supreme Court of India, comprising of CJI J.S. Khehar, and Justices Jasti Chelameswar, S.A. Bobde, R.K. Agarwal, Rohinton F. Nariman, A.M. Sapre, D.Y. Chandrachud, Sanjay Kishan Kaul and S.A. Nazeer.
3. **Equivalent citations:-** AIR 2017 SUPREME COURT 4161, (2017) 6 BOM CR 78, AIR 2017 SC (CIV) 2714, (2017) 3 KER LJ 17, 2017 (10) SCC 1, (2017) 124 ALL LR 877, (2017) 10 SCALE 1, (2017) 4 CURCC 87, (2017) 6 MAD LJ 267, (2017) 5 ALLMR 686 (SC), (2018) 1 RECCIVR 398, 2017 (178) AIC (SOC) 1 (SC), 242 (2017) DLT 9 (CN)(SC), 2017 (3) KCCR SN 255 (SC), 2017 (4) KLT SN 1 (KER)
4. **Date of Judgment:-** 24th August Of 2017

5. **Introduction:-**

The judgment of the Supreme Court of India in the case of Justice K.S. Puttaswamy (Retd.) v. Union of India shifted the Indian constitutional jurisprudence in a decisive direction. At its core, this dispute was about the collision between a modern digital state and the inviolable sphere of personal autonomy. None of the world's analog society ever had Biometric collection by the Indian government under the Aadhaar (Unique Identification Authority of India) scheme resulted in an unavoidable legal contradiction between individual rights and state efficiency. The Court held that state action in this case, This system aims to provide the base for developing a welfare state. It was on July 19th 2009 that the Prime Minister's Office announced (Authentication Aided Basic Injury Relief) which consists of an 8-digit identification number without deduction for any additional information about the holder. For citizens not in possession of Aadhaar numbers, who wish to apply for jobs and social security cards along with persons seeking public employment agencies to provide work matching

services or employers hiring such people on monthly payroll basis from factories contractors who levy VAT within marketing quotas. These older, limiting precedents weakened the post-Maneka Gandhi jurisprudence that had been in place, which supported an organic interpretation of fundamental rights. The Court acknowledged that technological overreach—more especially, the size and requirement of the State's biometric identifier—compelled the judiciary to establish the limits of state authority in the digital era. This commentary's objective is to analyze how the bench's unanimous decision deemed the right to privacy fundamental, radically altering the framework of fundamental rights and creating an indestructible constitutional barrier against arbitrary state interference.

6. **Facts:-**

- 1) The Retired Justice K. S. Puttaswamy (Retd.) challenged the constitutionality of the national identity scheme (the Aadhaar project) and related biometric and demographic data collection in Writ Petition (Civil) No. 494 of 2012.
- 2) As part of the Aadhaar program, residents were enrolled by being given a 12-digit unique identification number that was connected to demographic information and biometric data (such as fingerprints and iris scans).
- 3) The petitioners argued that mandatory biometric enrollment, identity linking for government benefits, and the extensive data collection threatened informational self-determination, privacy, autonomy, and dignity.
- 4) The State (Union of India & relevant agencies) defended the scheme by claiming that the Constitution did not specifically recognize a freestanding fundamental right to privacy and that Aadhaar served a legitimate public welfare purpose (e.g., cutting down on fraud and duplication, delivering benefits efficiently) that justified the collection and linking of data.
- 5) Due to conflicting prior judicial precedents (such as *M.P. Sharma v. Satish Chandra* and *Kharak Singh v. State of U.P.*) that held that privacy was not a fundamental right, the questions of whether the right to privacy is a fundamental right under the Indian Constitution and how it applies in the digital/data era were referred to a nine-judge Constitution Bench of the Supreme Court of India.
- 6) The case background thus combined both the legal question (fundamental right to privacy) and the factual scenario (biometric identity scheme, large data collection, welfare linkage) in the Indian context.

7. Petitioners' Arguments:-

Arguments Made by the Petitioner (Justice K.S. Puttaswamy and Intervenors)

In particular, the petitioners argued that the right to privacy was an independent, constitutionally guaranteed right that was derived from the right to life with dignity, which is safeguarded under Article 21 of the Constitution. They claimed that the Aadhaar project directly violated fundamental rights.

Violation of Fundamental Rights and Autonomy: It was argued that making people link to Aadhaar in order to receive services was a compulsion that essentially forced people to give up their right to privacy.

Informational Security Risks: The petitioners expressed grave worries about the potential for identity and data to be stolen from the Aadhaar project, predicting a decline in public confidence in the system as a result.

Constitutional Guarantee: They contended that the right to privacy was established by established legal precedents, derived from Article 21 and incidental to other freedoms guaranteed by the Constitution. They also cited the need to resolve any ambiguities that arose from cases such as M.P. Sharma.

They argued that under Article 21 of the Constitution, the right to privacy is inextricably linked to the right to life and personal liberty. Additionally, they contended that autonomy and dignity—which in the modern era include privacy—are implied by Part III rights (Articles 14, 19, etc.).

The digital age, data collection, biometric enrollment, tracking, and profiling were among the contemporary realities they highlighted. They maintained that since state and non-state actors can now encroach much more deeply than they could in the past, privacy must be recognized by the law.

8. Respondents Arguments:-

The Union of India (UOI) adopted a pragmatic, consequentialist approach, emphasizing administrative necessity and national security interests.

Welfare and Fraud Reduction: According to the UOI, Aadhaar was required to guarantee that government benefits were received by the right people, which would lessen fraud and subsidy dissipation and serve a justifiable state interest.

Restricted Legal Status of Privacy: The UOI's main legal argument was that since the right to privacy was not specifically stated in the Constitution, it should only be acknowledged as a restricted "common law right," not a fundamental one.

Data Security Defense: The Respondents argued that there had been few instances of data leaks and that stringent security measures were in place to protect Aadhaar data.

Prioritizing Social Welfare: They maintained that effective management should take precedence over individual claims of liberty and that state programs intended to promote social welfare and national security should be made available to the public as soon as feasible.

The State also argued the right to privacy cannot be absolute. Restrictions are permissible so long as they are backed by law, aim for a legitimate objective, and are proportionate. They emphasize balancing individual rights vs public interest.

The State argued the scheme serves a legitimate public welfare aim – elimination of duplication/fraud in subsidy schemes, streamlined service delivery, national benefit. Thus, biometric enrolment and linking benefits to identity were justified.

9. Judgement:-

In a landmark ruling in Indian constitutional law, the Supreme Court's nine-judge Constitution Bench unanimously ruled in Justice K.S. Puttaswamy (Retd.) v. Union of India on August 24, 2017, that the right to privacy is a fundamental right guaranteed by Part III of the Constitution, specifically Articles 14, 19, and 21. The Court overturned previous rulings in *Kharak Singh v. State of U.P.* and *M.P. Sharma v. Satish Chandra*, stating that they were rendered during a time when privacy was not understood in the contemporary sense. The judges acknowledged that human dignity, autonomy, and freedom are fundamentally based on privacy, which is essential to life and liberty.

They clarified that privacy is a multifaceted right that encompasses informational privacy, physical privacy, and decisional autonomy, safeguarding individual choices, information, and

identity. Justice Kaul defined privacy as a condition that permits people to maintain their personal space and freedom of choice, while Justice D.Y. Chandrachud, who wrote the lead opinion, said that the Constitution is a living document that must change with society and technology. To maintain a balance between the interests of the state and individual rights, the Court did clarify that privacy is not absolute and can only be reasonably restricted in the presence of a legitimate purpose, a valid law, and proportionate interference. The judges emphasized that citizens are more at risk in the era of digitization and data collection.

The decision also linked privacy to democracy and constitutional morality, emphasizing that other rights are meaningless without it. Despite not specifically invalidating the Aadhaar scheme, this ruling paved the way for further scrutiny of Aadhaar and other data-related policies. The bench underlined that governance in the digital age must respect individual autonomy and urged the state to enact data protection laws, which eventually became part of India's privacy legislation. The ruling's tone was remarkably humane, recognizing that privacy concerns one's everyday life, including one's relationships, thoughts, body, and choices. The Constitution's protections against both state control and secret internet monitoring were reiterated.

In essence, the Court declared that privacy is the constitutional core of human dignity, making it clear that freedom in India is not only about speech or movement but also about the right to be left alone and to control one's own personal world.

10. Present Status Of The Case:-

Since the landmark 2017 judgment that declared the right to privacy as a fundamental right under Articles 14, 19, and 21 of the Indian Constitution, the legal position on privacy stands firmly established. The Supreme Court laid down a clear test for any intrusion into this right — it must meet the standards of legality, have a legitimate aim, and be proportionate. Following this, the government introduced the Digital Personal Data Protection Act, 2023, which received Presidential assent in August 2023, marking a significant move toward regulating data protection in India. However, despite this progress, experts argue that while the constitutional recognition of privacy is strong, practical enforcement remains weak, as issues like excessive data collection, state surveillance, and misuse of personal information still persist in the digital landscape.

11. Analytical Opinion on the Case:-

To be honest, this case seems to mark a sea change in Indian constitutional law. Prior to Puttaswamy, privacy was essentially undefined and unrestricted. However, this ruling gave the right to privacy a legitimate position. The Supreme Court discussed privacy as more than just a legal concept. It discussed it as a component of individual freedom, autonomy, and human dignity. It was historic because of that.

In my opinion, this case involves more than just biometrics or Aadhaar. It concerns the living and breathing Indian Constitution, not its inertia from 1950. The judges acknowledged that people are now controlled by those who control data, and that information is now power.

The decision taught me that privacy isn't a fancy or Western idea. Simple things like who we talk to, what we eat, what we look for, our health, and our religion or beliefs are all significant. Without privacy, freedom is diminished. Because they were well-versed in this, the Bench was able to draw the link between privacy and dignity.

I also liked how the Court corrected its own mistakes in the past. In the earlier cases of M.P. Sharma and Kharak Singh, the Supreme Court declared that privacy was not a fundamental right. But now the Court ruled that those views were wrong. That's courageous. It illustrates how the judiciary can adapt and recognize that the law must change along with society.

The government's assertions that welfare programs justify data collection and that privacy cannot be absolute have some merit. People do, in fact, need effective subsidies and benefits. Nonetheless, the Court clarified that efficiency cannot eradicate liberty. The state cannot say, "Give up your privacy to get your rights." That trade shouldn't have to be made in any democracy.

This case, in my opinion, was a warning about what was to come. The judges' eyes went beyond Aadhaar. They talked about how social media, technology, and surveillance can ruin the idea of a private life. They appear to have foreseen online profiling, AI tracking, and data leaks. It's almost prophetic.

According to students, this ruling also made constitutional law more relatable. It brought the Constitution's intangible words to life. Since privacy is inextricably linked to equality,

freedom, and life, Articles 14, 19, and 21 now feel like living protections.

It is true that privacy cannot be completely protected, as some may contend. The Court acknowledged that privacy has its limitations. Only a strong law, a justifiable goal, and appropriate action will allow the government to limit it. That strikes a reasonable balance. It is pro-citizen, not anti-state.

Puttaswamy, in my opinion, is a statement as opposed to just a verdict. It claims that India embraces the 21st century without hesitation. It revived the Constitution. It acted as a reminder that freedom includes the right to privacy when we so choose, in addition to the freedom to move and speak.

In short, this case made privacy personal. Scholars no longer discuss it. This right affects everyone in India, including the wealthy, farmers, and tech users. Its beauty lies in that.

12. Conclusion:-

Puttaswamy changed everything. Privacy is constitutional value. It is intrinsic to dignity and autonomy. The 9-judge bench spoke unanimously. This decision overruled old bad laws. Proportionality test is the state's leash. It led to new legislation (DPDP Act). But that Act needs scrutiny. The fight for digital rights continues. Vigilance is mandatory. We must balance state power and liberty. The constitutional path is laid.

The landmark case of *K.S. Puttaswamy v. Union of India* changed the definition of fundamental rights in India. In addition to strengthening the basis of individual liberties, the Supreme Court brought the Constitution into line with the realities of the digital age by acknowledging privacy as essential to human dignity and liberty. The ruling reaffirmed that the State cannot encroach on private property without a valid reason and following the proper procedures. Even though India has since taken action, such as passing the Digital Personal Data Protection Act, 2023, protecting citizens from corporate and governmental overreach and ensuring its effective implementation remain the real challenges. In the end, the case is a timeless reminder that privacy and liberty are inseparable in democratic nations.

1. https://www.sci.gov.in/landmark-judgment-summaries/?judgment_year=2017#breadcrumb
2. <https://translaw.clpr.org.in/case-law/justice-k-s-puttaswamy-anr-vs-union-of-india-ors-privacy/>
3. <https://privacylibrary.ccgnlud.org/case/justice-ks-puttaswamy-ors-vs-union-of-india-ors?utm>
4. <https://www.scobserver.in/reports/k-s-puttaswamy-right-to-privacy-judgment-of-the-court-in-plain-english-i/?utm>
5. <https://www.ssoar.info/ssoar/bitstream/handle/document/54766/ssoar-indrastraglobal-2017-11-bhandari-et-al-An-Analysis-of-Puttaswamy-The.pdf?sequence=1&utm>
6. <https://globalfreedomofexpression.columbia.edu/cases/puttaswamy-v-india/?utm>
7. <https://legalonus.com/case-analysis-of-k-s-puttaswamy-vs-union-of-india-2017-landmark-judgment-on-right-to-privacy/?utm>
8. <https://www.manupatracademy.com/legalpost/manu-sc-1044-2017?utm->

