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Abstract: Right to Privacy

Right to privacy is an important attribute of modern law system across various countries, as it propagates the idea of individual liberty, right to live without external interference with some exception. Such exceptions must be reasonable and does not unnecessarily encroach a person's individual liberty. Although , the Indian legal system had some indirect provisions for Right to privacy, it was only the aftermath of landmark judgement of Justice K.S. Puttaswamy when the Right to Privacy started being considered as a justiciable right for the citizens of the nation. This can be understood through while examining various article of the constitution.

There must be some guidance regarding the ambit of privacy. The importance of defining the word privacy was a challenging task for the jurists as it has the potential to encompass everything and at the same time it can also encompass nothing.

Important aspect of privacy include to live in a personal space where a person has the authority to make decision for themselves free from arbitrary interference of the state. State has the duty to not only not interfere but also to make laws that provide protection from anyone.

Privacy encompasses multiple dimensions such has privacy of information. It safeguards individuals against arbitrary state intrusion while also imposing obligations on the state to protect personal data in an increasingly digital age. The judgment emphasized that privacy is not an absolute right but is subject to reasonable restrictions based on legality, necessity, and proportionality.

The recognition of privacy has far-reaching implications, it influences areas such as data protection, surveillance, reproductive rights, LGBTQ+ rights, and freedom of expression. The goal is to establishe a framework for balancing individual freedoms with legitimate state interests, particularly in contexts involving national security and public welfare.

In conclusion, the right to privacy serves as a cornerstone of human dignity and personal liberty, reinforcing the idea that individuals must have control over their personal lives, choices, and information. Its continued development remains crucial in address.

# **RIGHT TO PRIVACY IN INDIA: A DETAILED ANALYSIS OF THE JUSTICE K.S. PUTTASWAMY V. UNION OF INDIA JUDGMENT**

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## **Introduction**

The recognition of the Right to Privacy is an important checkpoint in the Indian legal system as it leads to a successful transition into a period where the ambit of Right to Life is expanded. The decision of the Supreme Court in *Justice K.S. Puttaswamy v. Union of India (2017)* has led to a better interpretation of articles related to Right to Life earlier in the constitution. Such articles have had failed to provide light on important aspects of the Right to Life. As before the judgement the articles in the constitution did not clearly shed light upon right to life. Cause for such delay in providing interpretation can be associated to the fact that the country had recently got independence and the priority of the legal system was on providing such guideline aimed at saving the lives of individuals. Legal minds were had prioritize other major societal problems. It was only when the country had become stable and the idea that humans are not just to eat, sleep, exist and repeat. The Court, through a unanimous decision delivered by a nine-judge bench, declared that the right to privacy is intrinsic to life and personal liberty under Article 21 and is also part of the freedoms guaranteed under Part III of the Constitution.

This judgment is not merely about privacy—it is about dignity, autonomy, liberty, and the relationship between the individual and the State in a constitutional democracy.

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## **Background of the Case**

The case originated from challenges to the Aadhaar scheme, where petitioners argued that the collection and use of biometric data violated individuals' privacy.

However, before addressing Aadhaar's validity, the Court had to resolve a preliminary constitutional question:

### **Is the Right to Privacy a Fundamental Right under the Constitution of India?**

This question arose due to earlier judgments:

- **M.P. Sharma v. Satish Chandra** – Held that privacy is not a fundamental right.

- **Kharak Singh v. State of Uttar Pradesh** – Majority denied privacy as a fundamental right, though minority recognized it.

Because these were decided by smaller benches, the issue was referred to a nine-judge Constitution Bench.

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### **Bench Composition**

The judgment was delivered by a nine-judge bench of the Supreme Court comprising:

- J.S. Khehar
- J. Chelameswar
- S.A. Bobde
- R.K. Agrawal
- R.F. Nariman
- A.M. Sapre
- D.Y. Chandrachud
- S.K. Kaul
- S. Abdul Nazeer

Each judge delivered a separate but concurring opinion.

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### **Key Constitutional Question**

The central issue was:

Whether the Constitution of India guarantees a fundamental right to privacy, even though it is not expressly mentioned in the text.

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### **Evolution of Privacy Jurisprudence in India**

#### **1. Early Denial of Privacy**

- In *M.P. Sharma (1S54)*, the Court rejected privacy claims, emphasizing absence of explicit constitutional provision.
- In *Kharak Singh (1Sc2)*, the majority rejected privacy, but Justice Subba Rao's dissent recognized it.

#### **2. Gradual Recognition**

Subsequent cases began recognizing privacy indirectly:

- **Gobind v. State of Madhya Pradesh** – Accepted privacy as implicit in Article 21.
- **Maneka Gandhi v. Union of India** – Expanded Article 21 to include due process.

- **R. Rajagopal v. State of Tamil Nadu** – Recognized right to be let alone.
- **People’s Union for Civil Liberties v. Union of India** – Recognized privacy in communications.

Thus, even before Puttaswamy, privacy had gained judicial acceptance, but without a clear constitutional declaration.

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### **Judgment: Recognition of Privacy as a Fundamental Right**

The Court unanimously held:

**Right to Privacy is a fundamental right protected under Article 21 and Part III of the Constitution.**

#### **Key Observations**

1. Privacy is intrinsic to life and personal liberty.
2. It is not an elitist concept—it applies to every individual.
3. It is essential for dignity, autonomy, and freedom.

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### **Conceptual Foundations of Privacy**

The Court explained privacy through multiple dimensions:

#### **1. Privacy as Dignity**

Privacy is essential to human dignity. Without privacy, individuals cannot develop personality, autonomy, or identity.

#### **2. Privacy as Autonomy**

It protects decisional autonomy—choices relating to marriage, procreation, sexual orientation, and lifestyle.

#### **3. Privacy as Liberty**

Privacy is a necessary condition for freedom from State intrusion.

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### **Components of Privacy Identified by the Court**

The Court classified privacy into:

#### **1. Bodily Privacy**

Protection against physical intrusion (e.g., forced medical procedures).

#### **2. Informational Privacy**

Control over personal data and information.

#### **3. Decisional Privacy**

Freedom to make intimate personal decisions.

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### Overruling of Previous Judgments

The Court explicitly overruled:

- *M.P. Sharma (1S54)*
- *Kharak Singh (1Sc2)* (to the extent it denied privacy)

Justice Chandrachud noted that these decisions were based on outdated and narrow interpretations of fundamental rights.

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### Relationship with Article 21

The Court reaffirmed the expansive interpretation of Article 21:

“Life” means more than mere existence—it includes dignity, autonomy, and personal freedom.

Privacy was held to be an inherent part of:

- Article 21 (Life and Personal Liberty)
- Article 19 freedoms (speech, movement, association)
- Article 14 (equality)

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### Test for Restriction of Privacy

The Court laid down a **three-fold test** (sometimes expanded into four):

#### 1. Legality

There must be a law in existence.

#### 2. Legitimate Aim

The law must pursue a legitimate State interest.

#### 3. Proportionality

The intrusion must be proportionate to the objective.

#### 4. Procedural Safeguards

There must be safeguards against abuse. This test is crucial for judiciary exams.

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### Privacy and Technology

The Court recognized emerging threats due to:

- Data surveillance
- Digital profiling
- State and corporate data collection

Justice Chandrachud warned about the dangers of a “surveillance State.”

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### **Informational Privacy and Data Protection**

The judgment emphasized:

- Individuals must have control over personal data.
- The State has a duty to protect data.
- Need for a data protection framework.

This later led to legislative developments like data protection laws in India.

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### **Privacy and Sexual Orientation**

The Court explicitly recognized that:

Privacy includes sexual orientation and identity. This reasoning later became the foundation for:

- **Navtej Singh Johar v. Union of India**

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### **Privacy and Personal Choices**

The Court affirmed that privacy protects:

- Choice of partner
- Marriage decisions
- Reproductive rights
- Food preferences

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### **Horizontal Application of Privacy**

Privacy is not only enforceable against the State but also against non-State actors (e.g., corporations).

This is significant in the age of big tech and data economy.

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### **Separate Opinions: Key Highlights Justice Chandrachud**

- Gave the most comprehensive opinion
- Emphasized dignity, autonomy, and constitutional morality

#### **Justice Nariman**

- Linked privacy with fundamental freedoms under Article 19

#### **Justice Kaul**

- Focused on informational privacy and data protection
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## Significance of the Judgment

### 1. Constitutional Transformation

The judgment transforms the Constitution into a living document responsive to modern challenges.

### 2. Strengthening Individual Liberty

It shifts the balance in favor of individual rights over State power.

### 3. Foundation for Future Rights

It laid groundwork for:

- LGBTQ+ rights
- Data protection laws
- Reproductive autonomy

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## Impact on Aadhaar Case

The privacy judgment directly influenced:

- **K.S. Puttaswamy v. Union of India (Aadhaar)**

Where the Court upheld Aadhaar with limitations using the proportionality test.

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## Criticism of the Judgment

### 1. Vague Boundaries

Privacy is broad and undefined, leading to interpretational challenges.

### 2. Balancing Concerns

Difficult to balance privacy with:

- National security
- Public order
- Welfare schemes

### 3. Implementation Gap

Recognition without strong data protection laws initially created gaps.

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## Comparative Perspective

The Court drew from global jurisprudence:

- US Constitution (due process)
- European Convention on Human Rights
- UK common law traditions

## Doctrinal Contributions

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The judgment contributed:

1. Expansion of Article 21
2. Doctrine of dignity
3. Proportionality test
4. Recognition of unenumerated rights

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## Privacy vs State Interests

The Court clarified that privacy is **not absolute**. It can be restricted for:

- National security
- Crime prevention
- Welfare delivery

But only through the proportionality framework.

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## Judiciary Exam Perspective (Important Points)

For answer writing, remember:

- Privacy = Fundamental Right under Art. 21 + Part III
- Overruled: *M.P. Sharma, Kharak Singh*
- Three-fold test: legality, necessity, proportionality
- Dimensions: bodily, informational, decisional
- Linked to dignity and autonomy