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# **THE IMPACT OF THE RIGHT TO PRIVACY ON INDIAN JURISPRUDENCE: ANALYZING THE EVOLUTION OF PRIVACY RIGHTS IN INDIA POST THE PUTTASWAMY JUDGEMENT.**

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## **ABSTRACT**

Article 21 - “No person shall be deprived of his life or personal liberty except according to procedure established by law.”

Prior to the Puttaswamy judgement the state of right to privacy in the Indian constitution was quite ambiguous. It simply meant the “Right to be left alone”. The uncertainty in the right to privacy before the Puttaswamy judgement allowed the court to justify privacy invasions and any other problems. The Puttaswamy judgement played a significant role in establishing the right to privacy as a fundamental right in the Indian constitution, under article 21. It allowed the individuals to seek help from the court in case of breach of privacy which earlier would have been dismissed by the court. The judgement had a noteworthy impact for various areas of law. For instance, the court has imposed limits on government surveillance, requiring it to follow all protocols and procedures. Simultaneously it had raised questions about the use of collection and use of biometric data.

In this new era, the Puttaswamy judgement has implicated the protection of privacy of individuals on social media. Furthermore, the government has also emphasized the protection of reproductive rights such as the right to contraception and abortion. The court recognized that these decisions are highly personal and would be better off without government interference. To conclude, the Puttaswamy judgement has helped in protecting individuals and their privacy rights. It restrains the government from excessively interfering in people’s lives and provides justice to those whose privacy is violated.

**Keywords:** Article 21, Right to Life, Personal Liberty, Right to privacy.

## **INTRODUCTION**

The right to privacy, though not specifically stated in the Indian Constitution, has evolved into a fundamental right through judicial interpretation. This transformation resulted in the judgment of Justice K.S. Puttaswamy v. Union of India (2017), where a nine-judge bench of the Supreme Court unitedly recognized privacy as a vital part of the right to life and personal liberty under Article 21<sup>1</sup>.

This ruling not only revised the scope of individual freedoms but also set a new path for Indian jurisprudence, impacting areas such as data protection, personal autonomy, and state surveillance. The judgment emerged in the realization of rapid technological advancements and increasing problems over state and corporate intrusion into personal lives, highlighting the need for a legal framework to safeguard privacy.

This introduction provides a foundation for understanding the impact of the Puttaswamy judgment on Indian judicial system and its implications for the protection of individual rights in present day society. It further explains different interpretations of privacy by people and state. ‘Normative’ and ‘descriptive’ form of privacy. The references made from various international texts and articles. A conflict had always arose between the state authorities to conduct researches and the right to privacy of the individuals who plays an important role in conducting searches.<sup>2</sup>

## **UNDERSTANDING THE NATURE OF PRIVACY**

Puttaswamy stated that there are several meanings and understandings of privacy. A vivid description of privacy is simply the state to be left alone. Right to privacy is seen as the “right to be left alone”, or being sheltered from any kinds of intrusions. As said before privacy has different meanings, parents believe privacy to be a condition of not being aware of the knowledge possessed by others.

A vivid description juxtaposed with the normal idea of privacy, meaning privacy is seen as the right to keep a person’s personal life private and security from intrusions or interventions. It signifies the need of privacy and puts privacy as the top most priority on dignity and self-respect. It includes to be free from any kind of intrusions, to associate freely with whomever you want to and be able to control who can see or know information about you. All the judges in puttaswamy case collectively gave their agreement to include such an important right in the

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<sup>1</sup> (2017) 10 SCC 1

<sup>2</sup> AIR 1954 SC 300

constitution.

There are two distinctive ways in which privacy is defined, first one is normative and other one is descriptive or non-normative. A “descriptive” definition of privacy would be whether the person has complete control over their private information. A normative account, on the other hand, accounts to “moral obligations” or privacy you ought to have.

As Daniel J. Solove, a legal scholar, stated “A single definition of privacy is not necessary and perhaps not necessary.” This paper mostly views privacy from a descriptive perspective, however also delves into the actions of authorities and private bodies from a normal perspective.<sup>3</sup>

### CASE LAWS:

- **M.P. Sharma v. Satish Chandra (1954):** This case was the result of unauthorized searches organized by the district magistrate on a company. The petitioners argued that it was a violation of their fundamental rights under Article 19. The Supreme court said that the Indian Constitution does not specifically guarantee the right to privacy. The court ruled that search and interventions are not unconstitutional when done in accordance to law. This case was one of the earliest whose subject was privacy<sup>4</sup>.
- **Kharak Singh v. State of Uttar Pradesh (1962):** Kharak Singh had first been accused of robbery, however due to lack of enough evidence the court had to release him. But there were several cases that ruled him out as a public offender. This resulted in the police constantly coming to his house at any time of the day. Annoyed with this, Kharak Singh filed a lawsuit regarding such interventions by the police as a violation of his fundamental rights. The court again said that privacy was not a guaranteed fundamental right, but provided conditional security against certain interventions. It ruled out that right to privacy does not hold a specific position in the constitution.<sup>5</sup>
- **A.K. Gopalan v. State of Madras (1950)** was a foundational case in Indian constitutional law that set an early, strict interpretation of **Article 21**, which guarantees the **Right to Life and Personal Liberty**. A.K. Gopalan, a communist leader, was detained under the **Preventive Detention Act, 1950** and argued that this detention violated his fundamental rights, including personal liberty, without a fair process. The Supreme Court ruled against Gopalan, interpreting “procedure established by law”

<sup>3</sup> Daniel J. Solove, George Washington University Law school, A taxonomy of privacy

<sup>4</sup> M.P. Sharma and others vs Satish Chandra 1954 SCR 1077, 1954 AIR 300, 56 PUN LR 366

<sup>5</sup> Kharak Singh v. State of U.P., [1964] 1 SCR 332, AIR 1963 SC 1295, Article 19,21 of Indian constitution

in Article 21 to mean that any law allowing detention would be valid as long as it followed a legal procedure, regardless of whether the law was fair or reasonable. Additionally, the Court decided that each fundamental right was to be read independently, meaning Article 21 did not need to be consistent with other rights like those in Article 19 (freedoms of movement, speech, etc.).

While this ruling allowed broad state powers over individual freedoms, it was later overturned by the **Maneka Gandhi v. Union of India** case (1978). In *Maneka Gandhi*, the Court took a more protective stance, ruling that laws impacting personal liberty must be fair, just, and reasonable, and that fundamental rights should be read together to ensure greater protection of personal freedoms.

The *A.K. Gopalan* case, although eventually superseded, marked an important early step in defining the relationship between individual rights and state power in India.<sup>6</sup>

- **Maneka Gandhi v. Union of India** (1978) case is a landmark judgment that expanded the interpretation of **Article 21** in the Indian Constitution, which guarantees the **Right to Life and Personal Liberty**. The case began when Maneka Gandhi, a journalist, had her passport impounded by the government without clear reasons, prompting her to challenge this action as a violation of her fundamental rights.

The Supreme Court's decision in this case transformed Article 21, establishing that any law depriving an individual of personal liberty must be "**fair, just, and reasonable**". This marked a shift toward a **due process** approach, meaning that laws affecting individual freedoms cannot be arbitrary or oppressive.

Additionally, the Court ruled that **Articles 14, 19, and 21 must be read together**. This interconnected interpretation meant that any law impacting personal liberty must also meet standards of equality and freedom. The Court emphasized that "**personal liberty**" covers a broad range of rights essential for individual autonomy and dignity, reinforcing the importance of fairness in state actions that impact personal freedoms<sup>7</sup>.

- **K.S. Puttaswamy v. Union of India** case (2017) was a landmark decision by the Supreme Court of India that recognized the **Right to Privacy** as a fundamental right under **Article 21** of the Constitution. This case fundamentally changed how privacy is understood in India and set new standards for government actions related to personal privacy.

The case began when **Justice K.S. Puttaswamy**, a retired judge, challenged the

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<sup>6</sup> *AK Gopalan v. State of Madras*(1950)

<sup>7</sup> *Maneka Gandhi V. Union of India* (1978)

government's **Aadhaar** program, which collected biometric data from citizens. Puttaswamy argued that this data collection violated people's right to privacy. His case also raised a larger question about whether privacy was a constitutionally protected right, as it was not explicitly mentioned in the Constitution.

The main issue was whether **privacy** should be considered a fundamental right. Previous rulings, like in **M.P. Sharma** (1954) and **Kharak Singh** (1962), had stated that privacy was not a constitutional right. However, given the rise of technology and increasing concerns over personal data security, the Puttaswamy case forced the Court to revisit the issue.

### **The Supreme Court's Decision**

In a historic ruling, a nine-judge bench unanimously declared that **Right to Privacy** is indeed a **fundamental right** under Article 21, linked to the **Right to Life and Personal Liberty**. This judgment recognized that privacy is essential to a person's dignity and autonomy, marking a significant shift in the law.<sup>8</sup>

## **IMPLICATIONS OF THE PUTTASWAMY JUDGEMENT ON INDIAN JURISPRUDENCE**

It was the landmark case that recognized Right to Privacy as a fundamental right and thus had a severe impact in all areas of society.

Restriction in the usage of data by government and Data Protection.

- **Biometrics and Aadhar:** The Aadhar project which is India's Biometric Identity program was threatened on the basis of privacy. The collection of biometric data raises concerns about data security and potential issues. The Supreme Court looked at whether Aadhar is constitutional and decided that it is valid. However, they made it clear that Aadhar cannot be made compulsory for everything.
- **Data Protection:** The Puttaswamy case, imposed data protection laws that aimed to protect an individual's privacy and provide justice in case of any intrusions and interventions.
- **Surveillance and the State:** The judgement also put severe limitations in the government's usage of power. The Supreme Court emphasized that any state action that

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<sup>8</sup> K.S. Puttaswamy V. Union of India (2017)

disrupts privacy of individuals must meet a three-part test; it shall be lawful, legitimate and proportionate to individual goal.<sup>9</sup>

### **The Technological Age and Growing Privacy Concerns:**

- **Data Privacy and Surveillance:** The development in technology has led to newly evolved privacy concerns. The unprotected and unauthorized data available online is a big threat to privacy intrusions.
- **Data intrusions and cybersecurity:** The Right to Privacy now covers the digital world making data protection critical. The ease with which someone can get unauthorized access to a user's personal data is concerning and demands for a sturdy cybersecurity system. It includes firewalls, encryption of data and regular security checks to keep everything under control and alerted about any potential threats.
- **Facial Recognition and Artificial Intelligence:** Emergence of new technologies like AI (Artificial Intelligence) and Facial recognition systems have raised severe privacy concerns. There are worries about how these technologies collect, store and use personal data.

### **CHALLENGES IN IMPLEMENTING PRIVACY RIGHTS:**

As challenging as it was to make right to privacy a fundamental right it faced severe challenges in India:

- **Lack of comprehensive legislation:** Although there have been several efforts to introduce laws like the Personal Data Protection Bill, the absence of a legal framework means that there are several loopholes in the framework. This can put individuals in a vulnerable position which makes the privacy rights lose its meaning.<sup>10</sup>
- **Awareness among people:** Many people may not understand the importance of privacy rights or lack awareness about privacy rights. Furthermore, the framework especially in rural areas is underdeveloped.
- **Enforcement Mechanisms:** There needs to be an authorized community to monitor adherence to privacy rights and address any violations in accordance.

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<sup>9</sup> AIR 1997 SC 3011

<sup>10</sup> Personal Data Protection Bill, 2019 (PDP Bill)

## **BREACH OF ARTICLE 21 OF THE INDIAN CONSTITUTION**

In case of privacy breach, one should contact a lawyer and seek their assistance to help you protect your rights and help you in taking legal measures. A lawyer is required for the following reasons:

1. To analyze your case: A lawyer will analyze your case, take in account all the evidences, weigh his options and will provide you with the best possible solution to help your case.
2. Advise and awareness: A lawyer can help you understand your legal rights and obligations under the law and assist you to take action in accordance to such laws.
3. Represent you in court: A lawyer needs to be hired so he/she could represent you in front of the court. They are your legal medium to express your views, reasons and fight for you in the court.
4. Register your case: A lawyer can file a case on your behalf. They can prepare documents compiled of all the evidences and can present it in the court.
5. Safeguard your interests: A lawyer will help you safeguard your rights through the entire legal process. They make sure that your rights are protected, and you receive fair judgment.

## **RESEARCH METHODOLOGY**

### **Research Methodology**

The shifting landscape of privacy rights in India, with a special focus on the landmark Puttaswamy v. Union of India case, which officially recognized the Right to Privacy as a fundamental right. By examining this case and its broader impact, the research explores how Indian law has adapted to support privacy while balancing it with state needs for surveillance and data management.

#### **1. Research Design**

This research takes a qualitative, exploratory approach, aiming to understand the deeper, evolving interpretations of privacy in Indian law. By looking at judicial decisions and literature around the Right to Privacy, this study hopes to shed light on how both legal reasoning and social expectations have shaped this right.

#### **2. Data Collection Methods**

- **Primary Sources:** The backbone of this study is court judgments, especially the Puttaswamy case and other landmark privacy cases in India (e.g., M.P. Sharma, Kharak Singh, and Gobind). These cases offer insights into the gradual

evolution of privacy rights and provide a chronological path that helps contextualize today's interpretation of privacy.

- **Secondary Sources:** Supporting materials include law journals, scholarly articles, legal analyses, and reports. These help provide broader context and diverse perspectives on privacy in India, drawing from both Indian and international sources to enrich the study.

### 3. Literature Review Approach

The literature review provides a comprehensive backdrop by:

- Tracing the development of privacy rights in Indian law, from ambiguous definitions to their recognition as a fundamental right.
- Examining privacy from different angles, both within India and globally, to understand how India's approach compares with international privacy norms.
- Exploring different dimensions of privacy, as discussed in the Puttaswamy judgment, to clarify how these definitions guide practical protections.

### 4. Data Analysis

- **Case Law Analysis:** Each case is broken down into core themes to explore patterns and shifts in the courts' understanding of privacy. Key concepts and judicial reasoning are drawn out to see how the courts' approach evolved over time, culminating in the Puttaswamy decision.
- **Content Analysis of Secondary Literature:** Academic and policy literature is reviewed to capture ongoing discussions and critiques around the Puttaswamy ruling. This includes understanding the societal impacts and challenges in enforcing privacy rights, offering a well-rounded view of the legal and practical realities.

### 5. Legal Framework Analysis

Since the Puttaswamy ruling, new laws and policies have come into play, especially regarding data protection. This section analyzes:

- Emerging privacy-related legislation like the Personal Data Protection Bill, exploring its alignment with Puttaswamy's principles.
- Existing procedural safeguards under the Criminal Procedure Code (CrPC), looking at how well they protect individuals' privacy in law enforcement practices.

### 6. Limitations

- **Evolving Data Protection Landscape:** Privacy laws in India are still taking

shape, meaning the study's analysis of proposed bills or laws might be subject to change.

- **Varied Meanings of Privacy:** Privacy is a complex and personal concept. While this study focuses on legal definitions, it may not capture all social or cultural nuances surrounding privacy in Indian society.

## 7. Ethical Considerations

This research is committed to respecting privacy itself—no sensitive data is shared, and all interpretations are handled with care to avoid bias. The study aims to honour the spirit of privacy that the Puttaswamy case seeks to protect.

## 8. Expected Outcomes

By the end of this research, we hope to offer a clear view of how the Puttaswamy judgment transformed privacy rights in India and prompted legal shifts, especially in data protection and surveillance practices. Ideally, this work will also highlight areas where Indian law could evolve further to protect individuals in the fast-changing digital landscape.

## **OBJECTIVE OF THE RESEARCH**

### **Objective of the Research**

This research seeks to understand and explore how the concept of privacy has grown and changed within Indian law, particularly after the groundbreaking Puttaswamy v. Union of India judgment. The objectives of this study are:

#### **1. Tracing the Journey of Privacy Rights**

To see how the idea of privacy has evolved within the Indian legal system, especially how it transformed into a fundamental right with the Puttaswamy judgment.

#### **2. Unpacking the Impact of the Puttaswamy Case**

To look closely at how this judgment has affected different areas of law and society, from personal autonomy and data protection to the limits placed on government surveillance.

#### **3. Identifying Real-World Challenges in Privacy Protection**

To understand the real obstacles in bringing privacy protections to life—like gaps in current laws, how technology challenges these rights, and the level of public awareness about privacy protections.

#### **4. Exploring How Technology Shapes Privacy**

To examine how the rise of digital technology, surveillance systems, and artificial intelligence are changing the way we think about and protect our privacy.

### **5. Suggesting Paths Forward**

To propose practical steps for policymakers, legislators, and the courts to strengthen privacy rights, ensuring that these protections keep up with the rapidly evolving digital world.

Overall, this research aims to provide a clear picture of privacy rights in India today, contributing to ongoing conversations about how to safeguard individual freedoms in a connected and increasingly monitored world.

## **CONCLUSION**

The Puttaswamy judgment marks a landmark moment in Indian law, recognizing the Right to Privacy as a fundamental right linked to the Right to Life and Personal Liberty under Article 21. It has provided a legal framework that its influence on Indian law goes beyond individual rights, affecting legal principles, government policies, and societal norms. However, there are various challenges in effectively implementing privacy protections and balancing security with liberty, making it necessary to have constant legal development and vigilance.

The various new technological developments are the reason for growing privacy concerns. New to this technology, several people due to lack of awareness get caught up in frauds, digital theft, cyberextortion etc. We need a proper standardized system to tackle such problems for a healthy and wholesome digital life.

Taking a thorough view of the provisions concerning searches under the CrPC, it is evident that harmonizing all procedural safeguards is essential to prevent unnecessary intrusions into an individual's right to privacy. The three-level test established by Justice Chandrachud must be strictly followed clarifying these powers. First of all, there must be a law that allows the search. Secondly, this law should pursue a legitimate subject and do so with certain limitations, which, in this case, involves the detection and investigation of crime. Lastly, the law must be in order to the objective it aims to achieve. The Puttaswamy ruling has become a milestone in the protection of individual rights in India. By recognizing privacy as a fundamental right, it ensured that personal liberty is no longer just about physical freedom but also about the freedom to control one's personal space and information. This case has shaped the legal landscape in India, influencing debates on data privacy, surveillance, and the balance between government power and individual rights