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AN ANALYSIS OF THE RIGHT TO PRIVACY IN LIGHT OF JUSTICE K.S. PUTTASWAMY V. UNION OF INDIA: SCOPE AND LIMITATIONS

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ABSTRACT

An important turning point in Indian constitutional law was the acknowledgement of the right to privacy as a fundamental right in Justice K.S. Puttaswamy v. Union of India (2017)¹. The study examines how the Supreme Court's nine-judge panel unanimously ruled that privacy is essential to life and individual liberty, overturning earlier contradictory precedents, using doctrinal analysis.

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It places the ruling in the context of comparative constitutional law, investigates its influence on later cases and legislation and assesses implementation difficulties critically. In an increasingly digital age, the analysis emphasizes privacy as a living right that strikes a balance between personal freedom and justifiable state interests.

Keywords: Right to Privacy, Article 21, Fundamental Rights, Constitutional Law, Data Protection, Reasonable Restrictions

¹ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1

INTRODUCTION

In Indian constitutional law, privacy has long been a contested concept. The historic ruling in *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017)² radically changed Indian constitutional jurisprudence by acknowledging privacy as a fundamental right guaranteed by Article 21 of the Constitution. This acknowledgement was profoundly humanistic rather than merely doctrinal, recognizing privacy as essential to liberty, autonomy and dignity. However, the ruling also made clear that privacy is subject to reasonable limitations under a structured proportionality test.

The paper attempts to evaluate the scope and constraints of privacy after the Puttaswamy judgment which also places it in the context of India's constitutional framework and the international human rights debate.

SIGNIFICANCE OF THE PUTTASWAMY JUDGMENT

A unanimous nine-judge Supreme Court bench ruled on August 24, 2017, that privacy is a fundamental right inherent to life and personal liberty under Article 21 and as one of the liberties protected by Part III of the Constitution. Chief Justice J.S. Khehar stressed that privacy is the fundamental component of human dignity and autonomy in the lead judgment, which was written with companion opinions from Justices J. Chelameswar, S.A. Bobde, R.K. Agrawal, R.F. Nariman, A.M. Sapre, D.Y. Chandrachud, S.K. Kaul, and Abdul Nazeer.³

The importance of this ruling goes beyond simple doctrinal clarification. It established privacy as an unalienable natural right, acknowledged its multifaceted nature, offered a thorough framework for evaluating privacy violations and established guidelines for acceptable restrictions. The ruling had a profound impact on the legal, technological, social and political spheres, impacting later laws, court rulings and public discussions about individual liberties in a society that is becoming more and more digital.

RESEARCH OBJECTIVES

This paper aims to comprehensively examine the post-Puttaswamy landscape of privacy rights in India by analyzing the constitutional foundation and doctrinal evolution of the right to privacy. The paper further seeks to determine the scope of privacy as recognized by the Supreme Court and ascertain the limitations and restrictions framework applicable to privacy rights by evaluating subsequent judicial developments and legislative responses and assessing the balance between individual privacy and competing public interests.

CONSTITUTIONAL FOUNDATION OF PRIVACY RIGHTS

Pre-Puttaswamy Jurisprudence

The journey toward recognizing privacy as a fundamental right traversed several decades of

²

³ Ibid.

judicial pronouncements. In *M.P. Sharma v. Satish Chandra*⁴, an eight-judge bench held that the Constitution makers did not deem it necessary to provide explicitly for privacy protection, and thus search and seizure violated no fundamental right. This restrictive interpretation persisted in *Kharak Singh v. State of U.P.*⁵, where an eight-judge bench majority concluded that the Constitution did not guarantee a right to privacy.

However, Justice Subba Rao's dissent in *Kharak Singh* laid the groundwork for future developments, asserting that privacy formed an essential ingredient of personal liberty under Article 21. This progressive interpretation gained momentum in subsequent decades through landmark judgments that incrementally expanded constitutional protections.

In *Gobind v. State of M.P.*⁶, the Supreme Court first acknowledged the right to privacy as a fundamental right derived from Article 21. Privacy rights must be weighed against strong public interests, according to Justice Mathew. Privacy protection was further upheld in *R. Rajagopal v. State of Tamil Nadu*⁷, especially with regard to the unapproved dissemination of personal information.

The Puttaswamy Judgment: Constitutional Basis

The Puttaswamy ruling solidified privacy rights in a number of constitutional clauses. The Court found that the right to privacy is inextricably linked to human dignity and autonomy and acknowledged that it is a fundamental component of Article 21's protection of life and personal liberty. According to Justice Chandrachud's thorough ruling, people can make important decisions about their lives, relationships and views thanks to privacy.

The judgment also grounded privacy in the freedoms guaranteed under Article 19, particularly the freedom of speech and expression, movement, association and occupation. The Court reasoned that meaningful exercise of Article 19 freedoms necessitates privacy protection, as surveillance and privacy invasions create chilling effects on fundamental freedoms.

Additionally, the ruling relied on the equality principle of Article 14, acknowledging that private protection guarantees equal treatment and forbids arbitrary state intervention.

⁴ *M.P. Sharma v. Satish Chandra*, AIR 1954 SC 300.

⁵ *Kharak Singh v. State of U.P.*, 192 SCC OnLine US SC 10 (Justice Subba Rao, in his minority opinion came to the conclusion that right to privacy was a part of Art. 21 of the Constitution, but also went on to strike down the impugned regulation. He stated that right to personal liberty is not only a right to be free from restrictions placed on movements, but also free from encroachments on private life of individuals. He opined that right of personal liberty in Art. 21 is a right of an individual to be free from restrictions or encroachments on his person, whether those restrictions or encroachments are directly imposed or indirectly brought about by calculated measures. Therefore, all the acts of surveillance under the impugned Regulation were held to be infringing Art. 21 of the Constitution).

⁶ *Gobind v. State of M.P.*, (1975) 2 SCC 148

⁷ *AIR 1995 SC 264*

Regardless of caste, creed, gender, or social background, the Court stressed that privacy protects areas of autonomy that are crucial for individual dignity.

The Supreme Court created several fundamental pillars by establishing privacy in Articles 14, 19 and 21, guaranteeing strong defense against a range of privacy abuses. This multifaceted strategy strengthened individual rights by creating overlapping safeguards and reflecting the basic importance of privacy.

LIMITATIONS AND RESTRICTIONS FRAMEWORK

The Three-Fold Test

The Puttaswamy judgment established that while privacy is a fundamental right, it is not absolute and may be subject to reasonable restrictions. The Court articulated a three-fold test inspired by international jurisprudence, particularly the European Convention on Human Rights⁸ framework, to evaluate privacy restrictions' constitutionality.

First, any restriction must be sanctioned by law, requiring legislative authority through properly enacted statutes rather than arbitrary executive action. This requirement ensures legal certainty, prevents arbitrary intrusions and enables judicial review of privacy-infringing measures.

Second, the restriction must pursue a legitimate state aim. The judgment identified several permissible objectives, including national security, public order, crime prevention, protection of health or morals, and protection of others' rights and freedoms. This requirement ensures that privacy limitations serve genuine public interests rather than arbitrary or discriminatory purposes.

Third, the restriction must be proportionate and necessary in a democratic society. This necessitates that the measure be rationally connected to its objective, minimally invasive of rights and proportionate in balancing individual rights against public interests. The proportionality requirement prevents excessive intrusions that exceed what is necessary to achieve legitimate aims.

Proportionality Analysis

The proportionality principle emerged as central to the Puttaswamy framework, requiring courts to balance competing interests rather than applying categorical rules. Justice Chandrachud emphasized that proportionality analysis involves examining whether less restrictive alternatives exist and whether the restriction's benefits outweigh its costs to individual autonomy.

This approach requires courts to scrutinize legislative and executive actions rigorously, examining empirical evidence supporting claimed necessity, considering technological alternatives that might achieve objectives while minimizing privacy intrusions, and evaluating cumulative impacts of multiple privacy-infringing measures.

Proportionality also demands procedural safeguards, including independent oversight,

⁸https://www.echr.coe.int/documents/d/echr/convention_ENG

transparency requirements, notice to affected individuals where feasible, opportunities for challenge and redress and sunset provisions for temporary measures. These safeguards ensure that privacy restrictions remain accountable and subject to continuous evaluation.

Competing Rights and Interests

Privacy rights must be balanced against other fundamental rights and compelling public interests. The *Puttaswamy* judgment acknowledged several contexts where such balancing becomes necessary.

National security represents a significant competing interest, as the state bears responsibility for protecting citizens against threats. However, the Court emphasized that security concerns cannot justify blanket surveillance or disproportionate data collection. Security measures must be targeted, temporary where appropriate, and subject to independent oversight.

Crime prevention and investigation constitute another legitimate interest, potentially justifying limited privacy intrusions through judicial warrants, regulated surveillance and forensic examinations. However, such measures must adhere to strict procedural requirements and avoid fishing expeditions or generalized monitoring.

Public health imperatives, particularly evident during the COVID-19 pandemic, may necessitate limited privacy restrictions for contact tracing, quarantine enforcement and disease surveillance. The Court's framework requires that such measures be time-bound, purpose-limited and employ anonymization where possible.

Freedom of speech and press rights may sometimes conflict with privacy, particularly regarding public figures and matters of public interest. The Court recognized that privacy protections must be balanced against democratic accountability and the public's right to information, with reduced privacy expectations for public officials regarding their official conduct.

POST PUTTASWAMY JUDICIAL DEVELOPMENT

After the *Puttaswamy* ruling in 2017, the first big test of its privacy framework came with the Aadhaar challenge in 2018⁹. A five-judge bench had to decide whether India's massive biometric identity program respected constitutional limits. The Court took a balanced approach and upheld Aadhaar's basic structure, recognizing its role in ensuring subsidies reached the right people, but it also struck down provisions that went too far. For instance, Section 57 of the Aadhaar Act, which allowed private companies to demand Aadhaar authentication, was invalidated because it opened the door to unchecked data sharing. The Court also insisted on tighter safeguards—no storing of transaction histories, limiting data retention to six months, and stronger security protections. These measures gave life to the principles of data minimization and purpose limitation. Still, the judgment wasn't perfect. By allowing Aadhaar

⁹ Justice K.S. Puttaswamy (Retd.) v. Union of India (Aadhaar), (2019) 1 SCC 1

to remain mandatory for welfare and tax purposes, it left unresolved concerns about exclusion, biometric failures, and data security. Justice Chandrachud's dissent was particularly powerful, warning that mandatory Aadhaar failed the proportionality test laid down in *Puttaswamy*.

Soon after, the privacy framework was applied in other landmark cases. In *Navtej Singh Johar v. Union of India*¹⁰, the Court decriminalized consensual homosexual conduct, declaring that sexual orientation is a core part of identity. Here, privacy was not just about data—it was about the freedom to make intimate personal choices without fear of persecution. Justice Chandrachud stressed that constitutional morality must prevail over majoritarian prejudice, and that dignity requires respecting diverse identities. This judgment expanded privacy's reach to protect marginalized communities from discriminatory laws rooted in colonial morality.

In *Joseph Shine v. Union of India*¹¹, the Court struck down the adultery law. It recognized that intimate relationships fall within the private sphere and that treating women as property of their husbands violated both equality and privacy. While adultery might carry social consequences, criminalizing it was seen as disproportionate state intrusion into consensual adult relationships. The ruling affirmed that sexual autonomy is part of decisional privacy, and the state cannot morally police private conduct.

The principle of bodily autonomy was highlighted in *Common Cause v. Union of India*¹², which dealt with the right to die with dignity. The Court held that individuals have the right to refuse life-sustaining treatment and to make advance medical directives. Justice Chandrachud emphasized that dignity means respecting people's choices about their own bodies and lives, and privacy protects against forced medical interventions. Autonomy, in this sense, extends even to decisions about death in terminal conditions.

Finally, even earlier cases like *Shreya Singhal v. Union of India*¹³, which struck down vague restrictions on online speech, gained new relevance after *Puttaswamy*. Courts began to see how privacy and free expression are intertwined. Anonymous speech, for example, plays a vital role in democracy, but mass surveillance and broad data retention mandates can chill expression. Post-*Puttaswamy*, judges have increasingly insisted that such measures must be narrowly tailored and time-limited, reinforcing the idea that privacy is essential not just for autonomy but also for vibrant public discourse.

LIMITATIONS

¹⁰*Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1

¹¹*Joseph Shine v. Union of India*, (2018) 17 SCC 1

¹²*Common Cause v. Union of India*, (2018) 5 SCC 1

¹³*Shreya Singhal v. Union of India*, (2015) 5 SCC 1

Despite its strengths, the Puttaswamy framework faces limitations. The judgment provides principles rather than detailed standards, requiring extensive subsequent jurisprudence to address specific contexts. Enforcement mechanisms remain underdeveloped, with limited remedies for privacy violations and inadequate institutional capacity.

Surveillance law reform remains incomplete despite Puttaswamy's mandate for legislative frameworks governing intrusive powers. Existing laws like the Telegraph Act and Information Technology Act contain inadequate safeguards, judicial oversight remains limited and oversight institutions lack independence and resources.

The tension between privacy protection and data-driven innovation requires more nuanced treatment. The framework must evolve to enable beneficial data uses while preventing exploitative practices, a balance the current jurisprudence addresses incompletely.

Judicial capacity constraints limit effective enforcement. Privacy litigation requires technological expertise often unavailable in trial courts. Delays in case disposal mean privacy violations cause irreversible harm before judicial remedies materialize.

Public awareness limitations hinder rights assertion. Many individuals lack knowledge of privacy rights or mechanisms for vindication. Digital literacy gaps prevent informed consent and understanding of data practices' implications.

Technological change outpaces legal frameworks, creating regulatory gaps. Emerging technologies like artificial intelligence and the Internet of Things present novel privacy challenges requiring adaptive frameworks.

CONCLUSION

The Justice K.S. Puttaswamy v. Union of India judgment fundamentally transformed Indian constitutional jurisprudence, elevating privacy from an ambiguously protected interest to an explicitly recognized fundamental right intrinsic to life, liberty and dignity. This landmark decision established a comprehensive framework encompassing multiple privacy dimensions while articulating rigorous standards for evaluating permissible limitations.

The judgment's scope extends far beyond abstract constitutional doctrine. It has catalyzed legislative reforms, influenced subsequent judicial decisions on diverse issues from sexual orientation to surveillance, empowered individuals and civil society to challenge privacy violations, and sparked national conversations about digital rights, data protection, and government accountability.

However, significant challenges remain in the post-Puttaswamy landscape. Surveillance frameworks continue lacking adequate safeguards and oversight. Data protection legislation, while finally enacted, contains concerning government exemptions. Technological developments continually outpace legal protections. Implementation gaps between constitutional principles and ground-level reality persist. Balancing privacy with legitimate competing interests like security, criminal justice, and public health requires ongoing refinement.

The right to privacy's scope, while expansive in principle, faces practical limitations from resource constraints, enforcement challenges, technological complexities, and competing rights and interests. Nevertheless, Puttaswamy established an irreversible constitutional commitment to privacy as a cornerstone of democratic governance and individual dignity.

The way forward requires sustained effort across multiple dimensions including legislative reforms strengthening, procedural safeguards and remedies institutional development enhancing oversight and enforcement capacity, technological innovation enabling privacy-respecting governance, judicial evolution addressing emerging challenges and public engagement ensuring democratic participation in privacy policymaking.

As India navigates increasing digitalization, expanding surveillance capabilities, and evolving social norms, the Puttaswamy framework provides essential constitutional moorings. Privacy protection is not merely about restricting government power or limiting data collection, it fundamentally concerns preserving spaces for human growth, enabling authentic self-expression, protecting marginalized communities from discrimination and maintaining the dignity and autonomy essential to democratic citizenship.

The journey from ambiguous privacy protection to explicit constitutional recognition represents significant progress. Yet the journey toward effective, comprehensive privacy protection continues. The Puttaswamy judgment provides the map, translating its vision into lived reality requires sustained commitment from courts, legislatures, civil society, and citizens themselves. Only through such collective effort can India fulfill the judgment's promise of making privacy a meaningful reality for all its citizens in the digital age.

The right to privacy after Puttaswamy is both robustly recognized and perpetually evolving, comprehensively scoped yet carefully balanced, constitutionally enshrined yet practically challenged. Its ultimate success will be measured not by judicial eloquence or legislative sophistication alone, but by whether ordinary Indians can live, communicate, make choices, and engage in democratic participation with genuine freedom from unjustified intrusions into their personal domains. This remains the unfinished agenda and continuing aspiration of privacy jurisprudence in India.

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