

Puttaswamy Case - Important SC Judgements for UPSC

Many Supreme Court judgements have changed the face of Indian polity and law. These landmark SC judgements are very important segments of the [UPSC syllabus](#). In this series, we bring to you important SC judgments explained and dissected, for the benefit of IAS aspirants. In this article, you can read all about the Puttaswamy Case. Get a list of [landmark SC judgements for the UPSC exam](#) in the linked article.

Puttaswamy Case

Case Summary - Justice K. S. Puttaswamy (Retd.) V Union of India

The right to privacy is widely considered one of the basic human rights and the same is explicitly stated under Article 12 of the 1948 Universal Declaration of Human Rights:

“No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.”

Most nations in the West have a robust framework of laws regarding privacy and a need for the same in India has been felt for a very long time now. The [Supreme Court](#) had already made strong observations on the matter in various judgements which include:

- *M.P. Sharma v Satish Chandra*
- *Maneka Gandhi v Union of India*
- *Kharak Singh v State of UP, and*
- *Peoples Union for Civil Liberties v Union of India.*

The right to privacy of an individual was again brought to the fore by the issuance of Aadhar Cards. Retired Justice Puttaswamy challenged the constitutionality of Aadhar before the Supreme Court by filing a writ petition. The petitioner contended that with regard to all the previous apex court judgements, the Right to Privacy is a fundamental right and the Aadhar procedure violated this right.

Issues before the Court

- The issue before the Court was whether Right to Privacy was a fundamental right despite it not being expressly provided for by the Constitution.
- The question that also arose was that since the Court had stopped short of declaring the right to privacy an absolute fundamental right in some of the above-mentioned judgements, the petitioner wanted the Court to clarify whether the view expressed in these previous judgements was the correct constitutional position.

Also read: [Privacy and India](#)

Petitioner's views

The petitioner put forth that the right to privacy of an individual was an intrinsic part of the right to life and personal liberty as guaranteed by Article 21 of the Constitution. Therefore, along with the other rights contained in Part III, the Court as the guardian of the rights of the people had a duty to safeguard this right.

Respondents' views

The respondents through their counsels argued that the Right to Privacy has not been expressly provided for in the Constitution and as such reading it into the right of life and personal liberty will be akin to judicial overreach. They also contended that Article 21 had no application in either the M.P. Sharma case or the Kharak Singh case.

Court's judgement

The Court in its judgement stressed upon the following points:

- It was held that privacy concerns in this day and age of technology can arise from both the state as well as non-state entities and as such, a claim of violation of privacy lies against both of them.
- The Court also held that informational privacy in the age of the internet is not an absolute right and when an individual exercises his right to control over his data, it may lead to the violation of his privacy to a considerable extent.
- It was also laid down that the ambit of Article 21 is ever-expanding due to the agreement over the years among the Supreme Court judges as a result of which a plethora of rights has been included within [Article 21](#).

The judgement in this landmark case was finally pronounced by a 9-judge bench of the Supreme Court on 24th August 2017 upholding the fundamental right to privacy emanating from Article 21. The court stated that Right to Privacy is an inherent and integral part of Part III of the Constitution that guarantees [fundamental rights](#). The conflict in this area mainly arises between an individual's right to privacy and the legitimate aim of the government to implement its policies and a balance needs to be maintained while doing the same.

The SC also declared that the right to privacy is not an absolute right and any incursion of privacy by state or non-state actors must satisfy the following triple test:

1. Legitimate Aim
2. Proportionality
3. Legality

The decision of all the nine judges also held the following:

- The decision given in M.P. Sharma v Satish Chandra, which held that the Right to Privacy is not protected by the Constitution of India, stands over-ruled.
- The decision in Kharak Singh, to the degree it holds that Right to Privacy is not guaranteed by Part III, also stands over-ruled.
- The right to privacy of an individual is not only protected by the Constitution under Article 21 but is also an intrinsic part of the scheme of Part III which guarantees fundamental rights.

Analysis of the Judgement

Critics believe that this judgement is another chapter in the long list of instances of [judicial overreach](#) by the Court. The Supreme Court has time and again interpreted the Constitution on issues that are not expressly mentioned therein. It is, however, pertinent to mention that the principle of interpreting fundamental rights is particularly well-settled and as such calling this verdict judicial overreach is far-fetched. As Justice Chandrachud pointed out, this judgement cannot be termed as a constitutional amendment brought by a judicial decision and in all fairness, there is immense merit in this line of argument.

The Court has also been criticised for arguing in favour of a consent-based privacy framework which may not be appropriate for the modern data-based disruptive technological setup. The Court is basically recommending a framework that is well beyond its terms of reference and the details of which are left for the executive to

decide. But considering that the whole idea of privacy invasion immensely benefits the state, it does not make much sense.

Conclusion

The Supreme Court has once again risen to the occasion by protecting individual rights against the assault in the form of invasion of privacy. The judgement protects individual privacy despite the fact that a privacy law framework is still missing in the country even after gigantic technological advances which are a direct threat to the right of privacy. The judgement also paved the way for landmark judgements like the decriminalisation of homosexuality in *Navtej Singh Johar v. Union of India* (2018) and ending the provisions of the crime of adultery in the *Joseph Shine v. Union of India* case (2018).

