

SUPREME COURT CHAMBER 1



KS PUTTUSWAMY

SINGH

VS

UNION

OF INDIA

THE SUPREME COURT

The Supreme Court of India is the highest court in the country and has the power to interpret and uphold the Constitution.

KEY POWERS AND FUNCTIONS

1. Original Jurisdiction:

The Supreme Court has original jurisdiction over disputes between the Union and States, between States, and in cases relating to the interpretation of the Constitution.

It can issue writs such as habeas corpus, mandamus, quo warranto, certiorari, and prohibition to enforce fundamental rights and uphold the rule of law.

2. Appellate Jurisdiction:

The Supreme Court has appellate jurisdiction over all cases decided by High Courts.

It can hear appeals against final judgments and orders of High Courts in civil, criminal, and constitutional matters.

In certain cases, the Supreme Court can also hear appeals from decisions of tribunals and other authorities.

3. Advisory Jurisdiction:

The President of India can request the Supreme Court's opinion on any question of law or fact.

The Supreme Court's advisory opinions are not binding, but they are often given significant weight.

4. Constitutional Interpretation:

The Supreme Court has the power to interpret the Constitution and determine the validity of laws.

Its decisions on constitutional matters are binding on all courts in India.

5. Enforcement of Fundamental Rights:

The Supreme Court is the guardian of fundamental rights guaranteed under the Constitution.

It can issue writs to protect fundamental rights and prevent their violation by the government or other authorities.

6. Review of Administrative Actions:

The Supreme Court can review administrative actions of the government and its agencies.

It can quash illegal or arbitrary actions and ensure that administrative authorities act within the scope of their powers.

7. Curative Jurisdiction:

In exceptional cases, the Supreme Court can exercise its curative jurisdiction to review its own judgments.

This is a rare power used only in exceptional circumstances to address serious errors or injustice.

BACKGROUND OF THE CASE

- The case originated in 2012 when Justice K.S. Puttaswamy, a retired judge of the Karnataka High Court, filed a writ petition in the Supreme Court of India challenging the constitutionality of the Aadhaar scheme. The scheme, launched by the Indian government in 2009, required citizens to enrol and provide biometric data (fingerprints and iris scans) to receive a unique 12-digit Aadhaar number. This number was to be used for identity verification and to streamline access to government services, subsidies, and welfare programs.
- Justice Puttaswamy and other petitioners argued that:
 - The Aadhaar scheme, in its collection of sensitive personal data, violated an individual's right to privacy.
 - The scheme lacked adequate legal safeguards to protect citizens from potential misuse of their data.
 - Compulsory Aadhaar enrolment and linking to services without proper safeguards amounted to a violation of fundamental rights.
- The legal debate centred on whether the right to privacy was a fundamental right under the Indian Constitution, since privacy was not explicitly mentioned as a right in the text of the Constitution.

TIMELINE

1. Filing of the Petition (2012)

- Date: 2012
- Event: Retired Justice K.S. Puttaswamy filed a writ petition in the Supreme Court of India challenging the constitutional validity of the Aadhaar scheme. The petition raised concerns about the mandatory collection of biometric data (such as fingerprints and iris scans) and argued that this violated individuals' right to privacy.

2. Initial Hearings (2013-2015)

- 2013-2015: Various petitions challenging the Aadhaar scheme were clubbed together, and the main contention revolved around the absence of a clear right to privacy in the Indian Constitution, based on past Supreme Court judgments in *M.P. Sharma v. Satish Chandra* (1954) and *Kharak Singh v. State of Uttar Pradesh* (1962), which held that privacy was not a fundamental right.
- The Union government argued that the right to privacy was not explicitly recognized as a fundamental right in the Constitution.

3. Constitution Bench Referral (August 2015)

- August 11, 2015: The Supreme Court referred the case to a larger bench. A three-judge bench of the Court noted the conflicting earlier rulings on the right to privacy and referred the matter to a Constitution bench to decide whether privacy is a fundamental right.

4. Formation of a Nine-Judge Bench (2017)

- July 18, 2017: A nine-judge bench of the Supreme Court, headed by Chief Justice J.S. Khehar was constituted to examine whether the right to privacy was a fundamental right under the Constitution.
- The court heard detailed arguments on whether the Constitution recognizes privacy as a part of Article 21 (Right to Life and Personal Liberty) and whether earlier judgments on the subject needed reconsideration.

KEY DATES:

- 2012: Justice K.S. Puttaswamy files the writ petition.
- August 11, 2015: The case is referred to a larger bench.
- July 18, 2017: The nine-judge bench is constituted.
- July-August 2017: Final hearings take place.
- August 24, 2017: Supreme Court declares the right to privacy a fundamental right.

LAWS IN QUESTION

In *K.S. Puttaswamy v. Union of India* (2017), the key law in question was the right to privacy under the Indian Constitution, specifically whether it is recognized as a fundamental right.

Relevant Constitutional Provisions:

1. Article 21: Right to Life and Personal Liberty – The petitioners argued that privacy is intrinsic to personal liberty under Article 21 of the Indian Constitution.
2. Article 19: Freedom of Speech and Expression – The Court also examined the link between privacy and other fundamental rights, including freedoms guaranteed by Article 19, such as freedom of speech and expression.
3. Article 14: Right to Equality – The case also touched on Article 14, as the government's collection of personal data without safeguards could lead to unequal treatment.

PARTIES INVOLVED

1. Petitioner:

- Justice K.S. Puttaswamy (Retd.): A retired judge of the Karnataka High Court, who filed the writ petition challenging the constitutionality of the Aadhaar scheme, specifically raising concerns about privacy issues stemming from the collection of biometric data.

2. Respondent:

- Union of India: Representing the Government of India, which was defending the Aadhaar scheme and argued that privacy was not a fundamental right under the Indian Constitution.

3. Intervenor and Amicus Curiae:

- Several public interest organisations, individuals, and advocates joined as intervenors or provided amicus curiae (friend of the court) assistance. Key lawyers included:

- Shyam Divan: Lead counsel for the petitioners.
- Kapil Sibal, Arvind Datar, and Gopal Subramaniam: Senior advocates who represented various parties supporting the petition.
- K.K. Venugopal: The Attorney General of India, who represented the Union of India.
- Public interest groups and civil liberties organisations were also involved, highlighting issues of data protection and state surveillance in relation to Aadhaar.

KEY FACTS

1. Aadhaar Program:

- Introduced in 2009, the Aadhaar system was designed to provide every Indian resident with a unique identity number, based on their biometric and demographic data.
- The government argued that the scheme aimed to eliminate fraud, increase transparency, and streamline access to government benefits and services.
- However, concerns about data security, privacy, and the potential for mass surveillance were raised.

2. Previous Judgments:

- The Indian government cited two earlier Supreme Court decisions—*M.P. Sharma v. Satish Chandra* (1954) and *Kharak Singh v. State of Uttar Pradesh* (1962)—which had ruled that the right to privacy was not a fundamental right under the Constitution.
- These decisions held that the Constitution did not expressly protect privacy, leading to ambiguity regarding the Aadhaar scheme's legality concerning data collection.

3. Justice K.S. Puttaswamy's Petition:

- In 2012, Justice Puttaswamy filed a writ petition under Article 32 of the Indian Constitution, directly questioning the Aadhaar scheme's legality.
- He argued that the large-scale collection and storage of personal and biometric data without adequate safeguards violated Article 21 (Right to Life and Personal Liberty) of the Constitution, which implicitly guaranteed a right to privacy.

4. The Government's Argument:

- The Union of India contended that privacy was not a fundamental right under the Indian Constitution, and thus the Aadhaar program was legally valid.
- The government further argued that Aadhaar was a necessary tool for preventing corruption, ensuring efficient delivery of services, and enabling social welfare schemes.

5. Constitution Bench Referral:

- In 2015, a three-judge bench of the Supreme Court referred the matter to a larger bench due to the conflicting interpretations of privacy from previous cases.
- A nine-judge bench was constituted in 2017 to decide the broader issue of whether privacy is a fundamental right.

6. Debate on Privacy:

- The case led to widespread debates on the nature of privacy, particularly in the context of informational privacy, bodily autonomy, and personal choice.
- The court explored whether the right to privacy was part of Article 21, which guarantees the right to life and personal liberty, as well as its relation to other fundamental rights, such as freedom of speech and expression (Article 19).

7. Privacy and Technological Surveillance:

- The case had significant implications for the digital era, focusing on data protection and the potential for mass surveillance by the state.
- The lack of robust data protection laws and the potential misuse of personal data collected through Aadhaar became key concerns.

8. Intervenor and Public Support:

- Various public interest organisations, civil liberties groups, and individuals intervened in support of the petition, raising concerns over the implications of the Aadhaar system on citizens' rights.
- They argued that the lack of informed consent in the Aadhaar enrollment process violated the principles of personal autonomy and liberty.

9. Global Context:

- International legal principles related to privacy, including those developed by the United Nations and other global human rights frameworks, were also referenced during the hearings.
- The case was seen as an important moment in the development of privacy rights in the digital age.

IMPORTANT POINTS IN THE CASE

- **Biometric Data Collection:** The Aadhaar program required citizens to submit their biometric data for a unique ID, which could potentially allow the government to track individuals' movements and personal activities.
- **Privacy and Fundamental Rights:** At the core of the case was the question of whether privacy is an implicit fundamental right protected by the Constitution, particularly under Article 21.
- **Legal and Policy Safeguards:** The petitioners argued that the Aadhaar Act lacked proper safeguards for data protection and privacy.
- **Right to Informational Privacy:** The case explored the concept of informational privacy, where personal data, especially sensitive data like biometrics, should be protected from misuse.
- **State Surveillance:** The potential for the Aadhaar system to be used for state surveillance was a key issue, with concerns over the ability of the government to track and profile individuals using their Aadhaar-linked data.

ARGUMENTS IN FAVOUR OF THE PLAINTIFF

(K.S. PUTTASWAMY SINGH)

1. Violation of Fundamental Rights: The petitioner argued that the Aadhaar scheme violated several fundamental rights, including:

- Right to privacy: Under Article 21 of the Constitution.
- Right to freedom of thought and expression: Under Article 19 of the Constitution.
- Right to equality: Under Article 14 of the Constitution.

2. Unreasonable Restriction: The petitioner contended that the Aadhaar scheme imposed an unreasonable restriction on fundamental rights, as it required the collection and storage of sensitive personal data.

3. Lack of Legislative Basis: The petitioner argued that the Aadhaar scheme was implemented without proper legislative authority, making it unconstitutional.

4. Surveillance Concerns: The petitioner expressed concerns about the potential for government surveillance and misuse of personal data through the Aadhaar scheme.

ARGUMENTS IN FAVOUR OF THE DEFENDANT

(UNION OF INDIA)

1. National Security: The government argued that the Aadhaar scheme was necessary for national security and to prevent fraud, corruption, and terrorism.

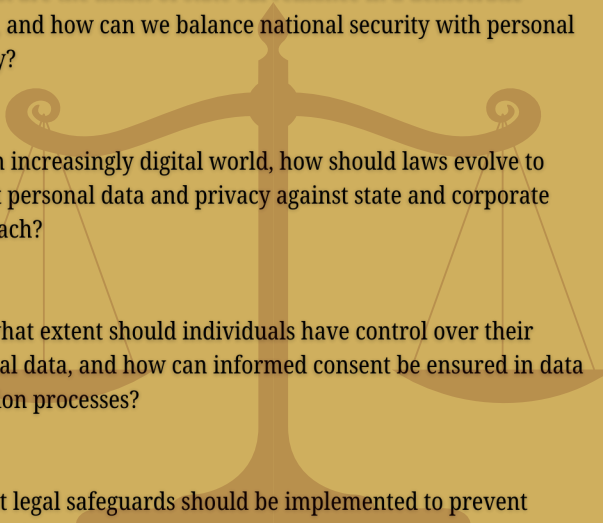
2. Welfare Programs: The government contended that Aadhaar was essential for the effective delivery of public services and welfare schemes.

3. Economic Benefits: The government argued that Aadhaar would promote financial inclusion and boost economic growth.

4. Technological Necessity: The government claimed that Aadhaar was a necessary technological advancement to modernise the country and improve governance.

5. Limited Scope of Data Collection: The government asserted that the Aadhaar scheme collected only limited personal data, which was necessary for its intended purposes.

THOUGHT PROVOKING QUESTIONS

1. How does recognizing the right to privacy as a fundamental right reshape our understanding of individual freedoms in a democratic society?
 2. What are the limits of state surveillance in a democratic nation, and how can we balance national security with personal privacy?
 3. In an increasingly digital world, how should laws evolve to protect personal data and privacy against state and corporate overreach?
 4. To what extent should individuals have control over their personal data, and how can informed consent be ensured in data collection processes?
 5. What legal safeguards should be implemented to prevent misuse of personal data collected through systems like Aadhaar?
 6. In the context of this judgement, what is the appropriate role of the judiciary in addressing issues of privacy and individual rights in relation to government policies?
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BIBLIOGRAPHY

<https://translaw.clpr.org.in/case-law/justice-k-s-puttaswamy-anr-vs-union-of-india-ors-privacy/>

<https://privacylibrary.ccgmlud.org/case/justice-ks-puttaswamy-ors-vs-union-of-india-ors>

<https://www.scobserver.in/cases/puttaswamy-v-union-of-india-fundamental-right-to-privacy-case-background/amp/>

