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Q12

Examine the scope of Fundamental Rights in the light of the latest judgement of the Supreme Court on Right to Privacy. (250 words).

UPSC Civil Services Mains 2017 · GS II · 15 marks · India and its Neighbourhood

India and its neighborhood - relations.

Core demand of the question

- Examine the scope of Fundamental Rights in the light of the latest judgement of the Supreme Court on Right to Privacy

Revision summary

A nine-judge Bench in **Puttaswamy (2017)** held privacy to be a fundamental right.

M.P. Sharma and Kharak Singh were overruled insofar as they denied privacy.

Privacy covers space, personal data and intimate decisions, read through **Articles 14, 19 and 21**.

Limits are law, legitimate aim and **proportionality**, not a blank cheque to the State.

Part III is open-textured; privacy is an unenumerated right located in existing Articles.

Introduction

On 24 August **2017** a nine-judge Bench in **Justice K.S. Puttaswamy v. Union of India** held that the right to privacy is a fundamental right. That judgment is the latest and controlling reading of how far Part III reaches. Scope here means whose liberty is protected, against whom, and with what limits. Privacy does not add a new numbered Article; it thickens **Articles 14, 19 and 21**, and the liberty cluster around them.

Body

What the Puttaswamy Bench held

- Privacy is intrinsic to life and personal liberty under **Article 21** and to the freedoms and equality that make a person a constitutional subject, not a data point of the State.
- Earlier contrary observations in **M.P. Sharma (1954)** and **Kharak Singh (1962)**, so far as they denied a right to privacy, were overruled.
- **Privacy has at least three aspects:** spatial privacy (a private space), informational privacy (control over personal data), and decisional autonomy (intimate choices of family, faith, food and orientation).
- The right is not absolute. A restriction must rest on law, serve a legitimate State aim, and be proportionate - suitable, necessary, and balanced against the right.
- Dignity, ordered liberty and the idea of a constitutional republic of individuals, not only of majorities, were the moral grounds of the holding.

How the judgment widens the scope of Fundamental Rights

- **Unenumerated rights:** Part III is not a closed list of named heads. If a claim is part of dignity and liberty, the Court may locate it inside existing Articles, as it did earlier for travel, livelihood and legal aid, and now for privacy.
- **Horizontal shadows:** the primary duty is still on the State (Article 12). Yet informational privacy implies that the State must also regulate private databases, because a fundamental right that stops at the police station but dies at a private server is hollow.
- **Equality and freedom travel together:** a privacy holding under Article 21 is read with Article 14 against arbitrary profiling and with Article 19 against a chill on speech, association and movement.
- Later use of the same cluster - for example on sexual orientation, adultery law, and data protection debates - shows that Puttaswamy is a gateway judgment, not a one-case rule about Aadhaar alone.
- Reasonable restrictions remain. National security, crime investigation, and taxation can still enter private life if they pass the proportionality test. Scope expanded; State power was not abolished.

What the scope still does not cover

- Privacy is not a veto on every welfare database or every criminal search. The Bench asked for justification, not for a vacuum of governance.
- Economic and social rights in Part IV do not become justiciable merely because privacy is fundamental; budgets and statutes still do that work.
- Group claims (caste, language, religion) remain in their own Articles; privacy is primarily a personal liberty tool, though it can protect a stigmatised group's intimate life.
- **Parliamentary competence to make a data-protection statute is affirmed in spirit:** a fundamental right often needs a detailed law to be usable against both the State and the market.

Examine, do not inflate

- The latest judgment enlarges the living content of Part III without rewriting the text.
- **The real scope test is future proportionality:** surveillance, Aadhaar-like seeding, and commercial profiling will show whether privacy is a right or a recital.

Flow diagram

Puttaswamy 2017 -> Article 21 life and liberty
 Puttaswamy 2017 -> Articles 14 and 19
 Puttaswamy 2017 -> Spatial informational decisional
 Spatial informational decisional -> Proportionality test
 Proportionality test -> Law legitimate aim necessity

Conclusion

Puttaswamy places privacy inside Articles 14, 19 and 21 as spatial, informational and decisional liberty, and it overrules the old denials of that right. Fundamental Rights therefore reach intimate choice and personal data, subject to a law that is legitimate and proportionate. The scope of Part III grew; it did not become unlimited.

Facts & figures

Justice K.S. Puttaswamy v. Union of India (2017)

Nine-judge Bench, 24 August 2017: privacy is a fundamental right intrinsic to life and liberty.

M.P. Sharma (1954) and Kharak Singh (1962)

Earlier observations denying a constitutional right to privacy were overruled on that point.

Three facets of privacy

Spatial privacy, informational privacy, and decisional autonomy, as distilled in the opinions.

Proportionality

A restriction needs a valid law, a legitimate aim, and a necessary and balanced means.

Article 21 cluster

Privacy is located primarily in life and personal liberty, read with equality and the freedoms in **Article 19**.

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