



ORIGINAL RESEARCH PAPER

Law

THE CONCEPT OF RIGHT TO PRIVACY AND CONSTITUTIONAL VALIDITY OF AADHAAR

KEY WORDS: Fundamental right., Privacy., Puttaswamy Vs Union of India, Aadhaar, Art. 21 of the Constitution.

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ABSTRACT

The term privacy is considered to be the crucial term in our society which has emerged recently and our society has witnessed this term for the past few years. In the recent times, there has been numerous debates on the concept of right to privacy i.e. whether our Constitution guarantees the right to privacy and its reasonable restrictions, its non- recognition by some courts and this right has been recognised by the other courts. A lot of Indian Jurists has thought whether Art. 21 which guarantees right to life includes right to privacy also. But there is no clear cut legal or theoretical frame work to help us in this context. According to Clinton Rossiter "Privacy is a special kind of independence, which can be understood as an attempt to secure autonomy in at least a few personal and spiritual concerns, if necessary in defiance of all the pressures of modern society. It is an attempt that is to say to do more than maintain a posture of self-respecting independence toward other men; it seeks to erect an unbreakable wall of dignity and reserve against the entire world". This paper deals with the concept of privacy and the constitutional validity of aadhaar and various case laws related to right to privacy in India.

RESEARCH PROBLEM:

What is the constitutional validity of aadhaar under the Constitution of India and its scope in ICCPR, UDHR?

OBJECTIVES OR AIM:

- To study about the concept of right to privacy under Art. 21 of the Constitution.
- To determine the Constitutional validity of aadhaar.
- To study about the evolution of right to privacy.

RESEARCH HYPOTHESIS:

Ho: Aadhaar does not violate the right to privacy guaranteed under Art. 21 of the Constitution.

Ha: Aadhaar violates the right to privacy guaranteed under Art. 21 of the Constitution.

CHAPTERISATION:

CHAPTER-1:

- Introduction.
- International Concepts of right to privacy.
- Right to privacy in India.

CHAPTER-2:

- Aadhaar.
- Positive aspects of aadhaar.
- Our privacy is at stake: Aadhaar.

CHAPTER-3:

- Disadvantages of aadhar.
- Constitutionality of aadhar.

RESEARCH METHODOLOGY:

The Research methodology adopted by the Researcher is the Doctrinal form and the author has referred the secondary sources in doing the research analysis.

CHAPTER-1:

INTRODUCTION:

As per Black's Law Dictionary, the term privacy means "a person's right to be let alone and also a right to be free from any unwarranted publicity or unwarranted public interference in matters in which the public must be concerned about".

Our Indian Constitution in its Art. 21 states about the right to life and personal liberty and it has been stated in the following words "a person shall not be deprived his life or personal liberty except according to the procedure established by law". The term "life" in this Article has been interpreted several times by our judiciary and it includes all aspects of life of a man which makes his life more meaningful, worth living and makes his life complete.

Everything in this world has both positive and as well as a negative side even though the technology has been developing it as also invaded each and every part of an individual whether such invasion is desired or not thus leading to violation of privacy.

In the earlier times in India, the law would give protection only from physical dangers such as trespass from which the Right to Property emerged to secure his house and cattle. This was considered to be the Right to Life. As the consistently changing precedent-based law developed to oblige the issues looked by the general population, it was understood that was physical security required, as well as security of the profound self and additionally of his sentiments, brains was required. Presently the Right to Life has extended in its degree and contains the privilege to be not to mention the privilege to freedom secures the activity of broad common benefits; and the expression "property" has developed to involve each type of ownership — impalpable, and also substantial.

The Supreme Court has every time expanded the ambit of Art. 21 keeping in view the international instruments to which India being a signatory. The Court has implied the right of privacy from Art.21 by interpreting it in conformity with Art.12 of the Universal Declaration on Human Rights and Art.17 of the International Covenant on Civil and Political Rights, 1966. Both of these international documents provide for the right of privacy.

INTERNATIONAL CONCEPTS RELATED TO RIGHT TO PRIVACY:

Article 12 of Universal Declaration of Human Rights (1948): it provides that no person can be subjected to any arbitrary interference with his privacy, family, home or o person can make any efforts to attack his reputation or honor. It also provides that every person has a right to protection against such kind f hindrance or attacks¹.

Article 17 of International Covenant of Civil and Political Rights: India is a party to this Covenant and it states that no person can be subjected to any interference or hidrance with his privacy, family or home and he cannot be subject to any unlawful attacks on his honor or reputation.

Article 8 of European Convention on Human Rights: It states that "Everyone has the right to respect for his private and family life, his home and there should not be any interference or hindrance by a public authority except in accordance with law. Such right can be curtailed only in the interests of national security, public safety or economic status of the country or for the protection of rights and freedom of other individuals".

WHY THE CONCEPT OF RIGHT TO PRIVACY IS AN INALIENABLE RIGHT?

Our country is a signatory to the UDHR convention in which the right to privacy is a part of the convention and all the state parties must abide by it. Our state agencies are well- equipped with

powerful surveillance systems, the personal data of its citizen's are prone to be misused by the political and administrative or other groups. Hence, the concept of right to privacy is considered as an inalienable and inseparable right⁴.

THE CONCEPT OF RIGHT TO PRIVACY IN INDIA:

POSITION BEFORE 1975:

In the year 1954, in **M. P. Sharma v. Satish Chandra**⁵, the Supreme Court rejected the contention of the appellant that Art. 20 (3) of the Constitution includes the right to privacy also and the reason for rejection of such a claim was that there was no provision similar to this right in the Fourth Amendment of the US Constitution.

In **Kharak Singh v. The State Of UP**⁶, the question of a constitutional right to privacy under Art. 21 was first raised. In this case, the petitioner was subjected to continuous surveillance as per Regulation 236 of the U.P. Police Regulations. The majority decision in this case was that our constitution does not provide this right in clear terms but the minority opinion was given by Justice Subba Rao, he observed that "even though our constitution does not expressly provide such a right as a fundamental right, but the said right is considered to be essential element of personal liberty". Although, the Supreme Court began to accept certain points of the minority view⁷, the right to privacy was still waiting for its place in Indian constitutional jurisprudence.

POSITION DURING 1975-2000:

In **Gobind v. State of Madhya Pradesh**⁸, the Supreme Court held that Art. 19 (a) and Art. 21 provides limited right to privacy and it is implied within the ambit of Part III of the constitution. It must also be noted that the said right is not an absolute right and it has reasonable restrictions within it⁹.

In **Sunil Batra v. Delhi Admn**¹⁰, the Supreme Court observed that a minimal infringement or violation into the privacy of the prisoner is unavoidable since the officers have a duty to keep a eye on their behaviour and must also ensure that their other human rights are being duly observed¹¹.

On the contrary, the Court in **Malak Singh v. State of P&H AIR 1991 SC 760**, held that surveillance is a direct encroachment upon an individual's right to privacy.

In **R. Rajagopal v. State of Tamil Nadu**¹², the Supreme Court again asserted and declared Art. 21 includes the right to privacy also and it is an implied right and has acquired sufficient constitutional status. It was also noted that this right includes a "right to be let alone" and the right "to protect the privacy of his own, his family, marriage, procreation, motherhood, child-bearing and education among other matters"¹³.

The Supreme Court in **People's Union for Civil Liberties v. Union of India**¹⁴, has held that telephonic conversations are private in nature and hence telephone-tapping amounts to violation of one's own privacy and such an act is unconstitutional unless conducted by a procedure established by law. It also allowed interception of messages in cases of public emergency or in the interests of the public safety. Hence, Art. 21 includes the right to privacy.

RECENT STATUS (FROM 2000 TO PRESENT):

In the year 2002, the Delhi High Court held that a person who is suffering from the chronic and dreadful disease of AIDS cannot claim the right of privacy and cannot maintain the right of secrecy against his proposed bride and the laboratory which tested his blood¹⁵.

After one year, the same decision was upheld by the Supreme Court in **Mr. 'X' v. Hospital 'Z', Mr. 'X' v. Hospital 'Z'**¹⁶. It was held that the girl to be married has a right to have full knowledge about her soon to be husband's health and the hospital has the lawful authority carry out the same duty.

The courts have taken different opinions on the compulsory

medical tests of an individual. In many cases, it has been held that ordering a woman to undergo virginity tests amounts to gross violation of her right to privacy. Hence, such a discretionary power of the court has to be exercised cautiously and must take into consideration the facts and circumstances of a case.

SELVI Vs STATE OF KARNATAKA¹⁷:

FACTS OF THE CASE:

In this case, Smt. Selvi and others have preferred an appeals in the years 2004,2005,2006,2007 & 2010 and these appeals were collectively taken by the constitutional bench of the Supreme Court in the form of Special leave petition as per Art. 136. The main objection which was raised in this case was involuntary administration of scientific techniques i.e. narco analysis, polygraph examination or brain mapping of the accused person in order to create an evidentiary value of the statements made by those persons. The main issue in this case was these techniques were used without the knowledge of the accused or witnesses or suspects thus resulting in the violation of personal liberty. The investigating agencies contended that these scientific techniques are used to extract the valuable information from those accused or witness which would not be possible in ordinary situations and they also added that these process helps in strengthening the investigation process and renders speedy justice and it also helps to prevent "third degree police treatments" during the investigation. The petitioners contended that these scientific techniques results in violation of right to privacy under Art. 21 and right against self-incrimination under Art. 20 (3) of the Constitution.

DECISION OF THE CASE:

The decision of the present case was delivered by the three-judge honourable bench namely K.G. Balakrishnan C.J.I and R.V. Raveendran J. and J.M. Panchal J.

According to Justice Balakrishnan, if the accused person makes any false statement under the influence of coercion or threats or inducements, such a statement is not valid and it affects the right against self-incrimination guaranteed under Art. 20 (3). The statements made by the accused can be valid when such statements are adduced as per the procedure established by the law and made voluntarily without coercion.

There are several ways in which the involuntary administration of either of the tests can be described as the restraint on 'personal liberty'. The most vital way is physical power, yet the medication instigated disclosures or the substantive inductions drawn from the estimation of the subject's physiological reactions can be portrayed as infringement of the psychological protection or privacy. It was held that a man could just say such self-implicating proclamations against himself affected by such tests. It was additionally held that in view of these tests a man experiences no physical mischief of any corrective nature, however it in this manner prompts the custodial mishandle, observation or undue provocation amid the time of the examination. In a few cases it has been watched that such video and sound account of the blamed after such tests has been spilled to the media, which is very risky and defamatory moreover. It might likewise prompt the 'trial by media', which will not be recipient to the charged. It was additionally added that such appropriate to protection doesn't allow outright ideal, as the as per the arrangements of the Code of Criminal Procedure it has been set up that police has the forces of capture, confinement, cross examination, inquiry and seizure. A reasonable amount of coercive powers by the police during an investigation process is necessary as far as it does not violate fairness. The 'rule against involuntary confessions' as embodied in Sections 24, 25, 26 and 27 of the Evidence Act, 1872 provides that the concept of 'personal liberty' under Article 21 of the constitution must be read in consonance with the concept of 'right to privacy' under Article 20(3) of the Constitution. The importance of personal autonomy in aspects such as the choice between remaining silent and speaking must be recognized.

At last, the court held that "The defensive extent of Article 20(3) reaches out to the investigative stage in criminal cases and when perused with Section 161(2) of the Code of Criminal Procedure,

1973 it ensures accused people, suspects and witnesses who are inspected amid an examination." Also, Article 20(3) gives a person to choose between to talk and to remain silent. Article 20(3) plans to keep the persuasive 'transport of individual learning that is significant to the actualities in issue'. Court additionally held that these tests cannot be gathered because of the statutory arrangements which empower therapeutic examination amid examination in criminal cases, i.e. the Explanation to Sections 53, 53-And and 54 of the Code of Criminal Procedure, 1973.

Court held that these tests have no place in the legal procedure. But in reality, it will disturb procedures, cause deferrals, and prompt various inconveniences which will bring about no more prominent level of conviction in the process than that which as of now exists.

RECOMMENDATION OF VENKATA CHELLAIH COMMISSION:

This commission proposed a new Art. 21B which states that every person has a right to respect for his private and family life, his home and his correspondence. The state can make any law imposing reasonable restrictions in such a right. Even after 10 years of recommendation, the parliament cannot implement such Article.

CHAPTER-2:

AADHAAR:

The Unique Identification Authority of India (UIDAI) presented a plan called AADHAAR which was gone for issuing personality cards for each subject crosswise over India. It includes an enlistment method which includes connecting of a person's individual qualifications, which comprises of his biometric and statistic information, to a 12 digit number which is select to that specific individual and will from that point be a proof of character for that person. The plan is being viewed by the administration as an aspiring advance towards the vision of 'Computerized or Digital India', on the reason that it is a comprehensive advanced database of those enlisted under the plan¹⁸.

At present, AADHAAR has been linked with several schemes and benefits which are run by the government. The purpose of conflict by the legislature is that this plan was taken off for enhancing degree in implementing welfare plans. But, on this ground, the legislature is likewise passionately damaging the privilege to protection of a person under Article 21 which is taught under appropriate to life and freedom.

POSITIVE ASPECTS OF AADHAAR:

Aadhaar based Direct Benefit Transfer (LPG Subsidy): The 12 digit number on Aadhaar card is utilized to get LPG appropriation sum directly in the financial balance. This DBTL process is named as PAHAL. To get this advantage you have to visit your place's merchant and get Aadhaar number connected to the 17 digit LPG customer number. Now you can get immediate advantage by connecting financial balance to the LPG number

Passport: On the off chance that you have an Aadhaar card, you can get travel permit or passport in only 10 days. Under this configuration, police check will be done at a later date rather than the past govern requiring police confirmation which used to be tedious. Likewise under the new government's control, on the off chance that you require an identification, Aadhaar number is compulsory.

Digital Locker: Government of India has launched digital locker (DigiLocker) system for everyone for storing all personal document on the government's server. And sign-up process for DigiLocker requires person to link his/her 12 digit Aadhaar card number. Check out benefits of DigiLocker.

Voter Card Linking: Starting 9th March 2015, Aadhaar card UIDAI number would be linked to the voter ID's. This move is made to wipe out fake voters. Once an Aadhaar number is connected, it would end up a different voter ID card holder to make an illicit use, as enlistment requires voter card holder to be physically present and deliver Aadhaar card to the surveying stall officer for connecting.

Monthly Pension: All the pensioners from select states will now have to register their Aadhaar card number to their respective department in order to receive monthly pension. This move was initiated as there have been fraudulent incidents as beneficiaries requesting pension were found to be fake.

Provident Fund: Similar to pension, provident fund cash will be given to the record holder who have enrolled their Aadhaar number with worker provident reserve association (EPFO).

Opening new bank account: Aadhaar letter gave by UIDAI is presently worthy by banks as a substantial evidence to open ledger. Indeed, it can fill in as an address evidence too gave address on Aadhaar card and address verification flawlessly coordinates. i.e. no compelling reason to create cluster of records to the banks for opening the record. Look at advantages of connecting Aadhaar number and financial balance.

Digital Life Certificate: Aadhaar connected computerized life endorsement is another activity which was propelled by Department of Electronics and IT. Named as "Jeevan Praman for Pensioners", this framework will end the procedure where retired person must be physically present at Pension Disbursing Agency to profit benefits. Rather every one of the points of interest of retired person will be gotten to carefully by the office.

AADHAAR: OUR PRIVACY IS AT STAKE

This issue of aadhaar came up before the Constitution Bench of the Supreme court and after 696 days, the case was presented in front of 5 Judge Bench and it consists of obligatory exclusive identification for accessing benefits and violation of privacy. The bench had also expected to make a statement regarding the constitutional validity of the Aadhaar Act, 2016- which was passed as a money Bill.

The above mentioned decision was arrived by a three-judge bench in the case of Shanta Sinha vs. Union of India, which dealt on the issue of making Aadhaar compulsory for access to government schemes like scholarships and midday meals.

The Lawyer for the petitioner was named Shyam Divan and he contended that the whole country was turning to be a concentration camp because even children below 18 years have no idea but to submit their demographic and biometric information in order to obtain government benefits. Divan stated that the government has been constantly handing out notices pursuing people to bring with them their biometric ID, even after the Supreme Court had given the verdict through an interim order that Aadhaar would not be compulsory.

Divan, while contradicting the mandatory connecting of Aadhaar cards with PAN numbers for tax documenting, had pondered that Aadhaar is a break to one side to substantial honesty, pride and enlightening self-assurance under Article 21. In any case, the bench had expressed that contentions concerning protection would not be heard. Till now, matters in regard of protection have not been heard, and this Constitution Bench is to give a decision on the eventual fate of Aadhaar in India.

THE PRIVACY BILL, 2011:

The bill says, "every individual shall have a right to his privacy, confidentiality of communication made to, or him which includes his personal correspondence, telephone conversations, telegraph messages, postal, electronic mail and other modes of communication; confidentiality of his private or his family life; protection of his honour and good name; protection from search, detention or exposure of lawful communication between and among individuals; privacy from surveillance; confidentiality of his banking and financial transactions, medical and legal information and protection of data relating to individual."

The bill gives security from a identity theft, including criminal data fraud (acting like someone else when captured for a wrongdoing), money related recognize robbery (utilizing another person's character to acquire credit, products and enterprises), etc..

The bill restricts capture of correspondences aside from in specific cases with endorsement of Secretary-level officer. It orders devastation of capture attempt of the material inside two months of discontinuance of interference.

The bill accommodates constitution of a Central Communication Interception Review Committee to analyze and audit the capture orders passed and is enabled to render a finding that such interference negated Section 5 of the Indian Telegraphs Act and that the blocked material ought to be devastated forthwith. It additionally forbids observation either by following a man or shut circuit TV or other electronic or by some other mode, aside from in specific cases according to the predetermined system.

According to the bill, no individual who has a position of business in India however has information utilizing gear situated in India, should gather or processor utilize or unveil any information identifying with individual to any individual without assent of such person.

The bill commands the foundation of a Data Protection Authority of India, whose capacity is to screen advancement in information preparing and PC innovation; to inspect law and to assess its impact on information assurance and to give suggestions and to get portrayals from individuals from the general population on any issue by and large influencing information security.

The Authority can explore any information security rupture and issue requests to defend the security interests of influenced people in the individual information that has or is probably going to have been endangered by such break. The bill makes repudiation of the arrangements on capture attempt an offense culpable with detainment for a term that may stretch out up to five years or with fine, which may reach out to Rs. 1 lakh or with both for each such block attempt. Thus, exposure of such data is a culpable offense with detainment up to three years and a fine of up to Rs. 50,000, or both.

Further, it says any persons who obtain any record of information concerning an individual from any officer of the government or agency under false pretext shall be punishable with a fine of up to Rs. 5 Lacs.

CHAPTER-3: MISUSE OF AADHAAR:

Fragile Privacy laws: In our country we do not have provision for right to privacy and in this technology era, our privacy is of prime importance than anything. A person's credentials or qualifications are used by the government and various this leads to data breach. There are no provisions for Indians to secure their private data against misuse by the government and/or corporates.

Gross misuse of Identity: Last year February, few agents of Reliance Jio were detained for gross misuse of fingerprints which were used for the purpose of activation and sale of Jio Sim cards and this misuse is due to the Central Identities Data Repository which rendered our private data in an insecure and in an unsafe manner. By misusing identity of others, that very identity can be utilized to perform transactions including banking in favour of an individual without their permission.

Data breach: There have been several instances of data breaches of Aadhaar numbers via websites run by the government. Recent reports suggest that there was a suspicion that information of Reliance Jio phone numbers (which uses Aadhaar) with names and addresses of users had been leaked via a security breach and were being sold on the dark web. Because of the assumption that Aadhaar numbers have turned into the essential unit of character in India, so the connecting of private accreditations to a wide range of databases, and abandoning them open on the web is certainly a terrible thought. Another report raised doubt that private data of around 130 million Aadhaar numbers were spilled from four sites keep running by the legislature that arrangement with welfare plots under National Rural Employment Guarantee Act (NREGA) and different benefits.

Authorization issue: Countless have endured approval issues, similar to fingerprints declining to affirm as their own. This is conceivable to happen for a plenty of reasons like disparity of fingerprints in the database, server issues, mistaken catching of biometric data, among others. Subsequent failure of confirmation of identity means that the individual will be deprived of necessary benefits from the government.

No right to opt out: Once an individual registers under the Aadhaar scheme, the individual's private information remains in the database for life and doesn't have a choice and the right to opt out even if there is no desire to have their biometric information stored.

Counterfeit Aadhaar registrations: Reports of counterfeit Aadhaar registrations keep cropping up across India, and the UIDAI has targeted around 34000 centers indulging in malicious practices.

THE CONSTITUTIONAL VALIDITY OF AADHAAR:

During August 2015, a three judge bench of the Supreme Court discussed the issue regarding the right to privacy to a higher constitutional bench. The discussion enlightened upon two main issues : whether fundamental right to privacy is being endangered or is it an affirmative direction towards a well-founded basis of this right, thus solving the dispute beyond doubt.

In the year 2017, 24th August the nine judge bench of the Supreme court made an important decision in the case of K.S. Puttaswamy Vs. Union of India. It was a remarkable and renowned judgment consist of 547 pages and here the court unanimously held that Art. 21 includes right to privacy and it is a fundamental right¹⁹.

BACKGROUND:

The case emerged out of a test to an established test to the Aadhaar venture, which expects to construct a database of individual personality and biometric data covering each Indian. In excess of a billion Indians have so far been enrolled in the Aadhaar program, which sees residents issued with a 12-digit number that adjusts to particular biometric information, for example, eye sweeps and fingerprints. Enrolment is currently turned out to be obligatory for recording assessment forms, opening ledgers, securing advances, purchasing and offering property or notwithstanding making buys of 50,000 rupees (₹610) or more.

In the year 2012, the retired Justice K.S. Puttaswamy filed a petition before the Supreme Court which challenged the constitutional validity of Aadhaar on the grounds that it violates the right to privacy.

The Government argued that there was no constitutional right of privacy in view of a unanimous decision of eight judges in M.P. Sharma v. Satish Chandra and a decision by a majority of four judges in Kharak Singh v. State of Uttar Pradesh.

The case was brought before a three judge Bench of the Court which, on 11 August 2015, requested that the issue ought to be alluded to a bigger Bench of the Court. On 18 July 2017, a five judge Constitution Bench requested the issue to be heard by a nine judge Bench. While it anticipated clarification on the privilege of right to privacy, the bench hearing the sacred test to Aadhaar passed an interim order by limiting obligatory linking of Aadhaar for availing benefits

Judgment:

The nine judges of the Court gave six separate opinions, producing what must be a contender for the longest reasoned judgment ever produced by a court. These judgments defy short summary and only a few key themes can be picked out.

The leading judgment is a tour de force, given on behalf of four judges by Dr D. Y. Chandrachud J in 266 pages. It deals, in detail, with the Indian local case law on security and the idea of protected rights. It likewise thinks about Comparative Law on Privacy (from England, the US, South Africa, Canada, the European Court of

Human Rights and the Inter-American Court of Human Rights). Different reactions of the security tenet – from Bork, Posner and women's activist faultfinders – are tended to.

The issue for the Petitioners was that the Indian Constitution, does not contain an express protection right. In any case, the Indian Constitution is a living instrument. The Courts have tried to offer impact to the "qualities" which the Constitution it contains by deciphering express crucial rights assurances as containing an extensive variety of different rights. The pivotal arrangement for this reason for existing is Article 21 which gives that "No individual might be denied of his life or individual freedom aside from as indicated by method built up by law"

Chandrachud J points out that this provision has been interpreted in the case relating to, the rights to a speedy trial, legal aid, shelter, a healthy environment, freedom from torture, reputation and to earn a livelihood. Privacy is also an incident of fundamental freedom or liberty. In an important section of the joint judgment headed "Essential Nature of Privacy", Chandrachud J analyses the concept of privacy as being founded on autonomy and as an essential aspect of dignity.

"Dignity or nobility cannot exist without protection. Both live inside the natural estimations of life, freedom and opportunity which the Constitution has perceived. Protection is a definitive articulation of the sacredness of the person. It is an established esteem which straddles over the range of central rights and ensures for the individual a zone of decision and self-assurance"

The judgment alludes with endorsement to the 2012 Report of the Expert Group on Privacy, which sets out nine standards (which have much just the same as the EU information security standards). The conclusions are set out at pages 260-265 of the joint judgment. It is held that security is an unavoidably ensured right which develops, fundamentally, from Article 21 of the Constitution. This isn't an outright right however an impedance must meet the triple prerequisite of (ii) Legality; (ii) the requirement for a honest to goodness point and (iii) proportionality (p.264). It is additionally noticed that, as instructive security is a feature of the privilege to security the Government should set up a powerful administration for information assurance or data protection.

Two other important points are dealt with in the joint judgment:

- It stressed on the way that sexual orientation is a fundamental trait of protection therefore giving occasion to feel doubts in the instance of Suresh Kumar Koushal v. Naz Foundation (2014) which maintained section 377 of the Indian Penal Code, which successfully criminalizes same-sex connections between consenting grown-ups. A re- evaluation of Suresh Koushal is yet pending before a constitution bench of the Supreme Court.
- Chandrachud J overrode the judgment of his father (Chandrachud CJ) in the celebrated case of ADM Jabalpur v Shivakant Shukla (1976) which held that fundamental rights could be suspended amid the Emergency. In spite of the fact that the ADM Jabalpur judgment was invalidated by 44th amendment to the constitution it has now at long last been put to rest. In his agreeing judgment Sanjay Kishan Kaul J remarked.

"the ADM Jabalpur case ... was an abnormality in the constitutional statute of our nation and the allure of covering the greater part feeling ten understand profound, with no way of revival".

Hence by its order the Court ruled that the right to privacy is protected as part of the right to life and fundamental liberty under Article 21 and aadhaar violates the right to privacy of an individual.

CONCLUSION:

Thus from the above I would conclude that the fight to consider right to privacy as a fundamental right within the ambit of Art. 21 which was going for a long time has come to an end by the

decision given in the Puttswamy's case. Even though this concept of aadhaar and issuance of aadhaar has provided so many benefits and has saved precious time of an individual by making an instant transaction. This concept of aadhaar violates the individual's privacy and also it can be treated as a national hazard since any one can easily access our personal details for a data breach. In criminal trial, scientific techniques can be used to extract information from the accused or the witness or the suspect without violating their right to privacy and right against self-incrimination only when they make statements voluntarily and by following procedure established by law. A similar kind of scheme was introduced in England as a trial and error method but this scheme was discarded on the ground that it violates individual liberty. The AADHAAR scheme in India has had a similar impact and therefore is an infringement to personal liberty as protected under Article 21 of the Constitution.

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1. <http://www.studydrive.com/essay/Right-To-Privacy-5910835.html#page>

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ABSTRACT:
The term privacy is considered to be the crucial term in our society which has emerged recently and our society has witnessed this term for the past few years. In the recent times, there has been numerous debates on the concept of right to privacy i.e. whether our Constitution guarantees the right to privacy and its reasonable restrictions, its non-recognition by some courts and this right has been recognised by the other courts. A lot of Indian Jurists has thought whether Art. 21, which guarantees right to life includes right to privacy also. But there is no clear cut legal or theoretical frame work to help us in this.

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WHY THE CONCEPT OF RIGHT TO PRIVACY IS AN INALIENABLE RIGHT?
Our country is a signatory to the UDHR convention in which the right to privacy is a part of the convention and all the state parties must abide by it. Our state agencies are well-equipped with powerful surveillance systems, the personal data of its citizen's are prone to be misused by the political and administrative or other groups. Hence, the concept of right to privacy is considered as an inalienable and inseparable right.
THE CONCEPT OF RIGHT TO PRIVACY IN INDIA:
POSITION BEFORE 1975:

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The investigating agencies contended that these scientific techniques are used to extract

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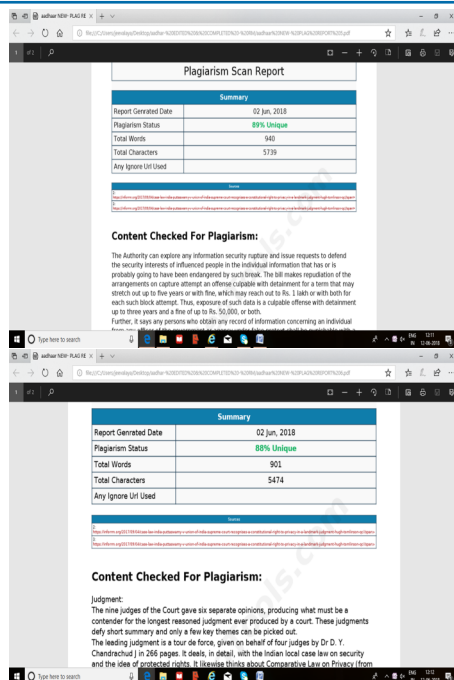
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Plagiarism Status	81% Unique
Total Words	994
Total Characters	6377
Any Ignore URL Used	

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Content Checked For Plagiarism:

Report: On the off chance that you have an Aadhaar card, you can get travel permit or passport in only 10 days. Under the configuration, police check will be done at a later date rather than the past govern requiring police confirmation which used to be tedious. Likewise under the new government's control, on the off chance that you require an identification, Aadhaar number is compulsory. Digital Locker: Government of India has launched digital locker (Digilocker) system for everyone for storing all personal document on the government's server. And sign-up process for Digilocker requires person to link their 12 digit Aadhaar card number. Check out benefits of Digilocker.



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