CHAPTER 7

CONCLUSION AND SUGGESTIONS

> *"Privacy is a common value in that all individuals value some degree of privacy and have some common perceptions about privacy. Privacy is also a public value in that it has value not just to the individual as an individual or to all individuals in common but also to the democratic political system …"*[1]

Right to Privacy is a valuable human right for every individual of past, present and future society. It is a variable concept and varies with the passage of time, place and society. Therefore, it is not easy to define 'Privacy' in strict sense of the term. Privacy generally means, the right to be let alone (Justice Cooley, 1888). In 1890, Louis Brandeis and Samuel Warren published a seminal article in the Harvard Law Review, titled "The Right to Privacy," where it was observed that, the object of Privacy is to protect 'inviolate personality.' Next important landmark in the field of Privacy, is the book written by Prof. Alan F. Westin, titled "Privacy and Freedom," 1970. It defines Privacy as the desire of individuals for solitude, intimacy, anonymity and reserve. According to him, Privacy is the claim of individuals, groups or institutions to determine for themselves when, how and to what extent, information about them is communicated to others.

Adam Carlyle Breckenridge in his book, "The Right to Privacy" (November, 1971), has described Right to Privacy as "A most Comprehensive Right." In view of Carlyle, Privacy is the rightful claim of the individual to determine the extent to which he wishes to share himself with others and his control over the time, place and circumstances to communicate with others. It means, his right to withdraw or to participate as he thinks fit. It is also the individual's right to control dissemination of information about himself and it is his own personal possession.

Therefore, Right to Privacy cannot be described as a single human right, rather it is a bundle of rights and it includes human being's choice over his or her own personal affairs to decide the extent of public disclosure of the same. In brief,

[1] Priscilla M. Regan, *Legislating Privacy : Technology, Social Values, and Public Policy*, 1995, pp.213, 225.

Privacy means, freedom from unauthorized and unwarranted intrusion into one's private and personal life. In the modern age, various new dimensions of Right to Privacy have been emerged, like Privacy of Family, Home and Correspondence, Privacy of Marriage, Privacy of Information, Workplace Privacy, Privacy of Celebrity Life, Health Care Privacy and so on.

Privacy has both material and philosophical aspects. Hence, the term 'Privacy' has been derived from the term 'Private Space.' Every individual, be he of past, present or future society, always acts in search of his own 'Private Space,' where the one can enjoy freedom from outside interference and can act according to one's wishes. The oldest and traditional definition of Right to Privacy was propounded by Thomas M. Cooley as well as by Warren and Brandeis. Though various Indian and Western Scholars have tried to define Privacy in their own terms, but the actual outcome was not very much fruitful, because the idea of Privacy is a variable concept and varies with the societal as well as cultural variation.

Various authors have expressed that, it is impossible to define 'Privacy' universally due to its variable nature based on the social and cultural context. Hence, the Western and Indian Scholars have possessed differences in their opinions while defining Privacy. According to Western Jurists, Privacy is not a single right, rather it is a bundle of rights and as such, the concept of Privacy defined in the Nordic Conference of Jurists, 1967, is appropriate. On the contrary, Indian Jurists have opined that, Privacy is a single concept and whatever may be the nature of the right, actually Privacy lies in the idea of exclusion of all others from the purview of the activities of an individual.

Depending upon the nature and circumstances of each case, Privacy can be classified as Intimate Privacy, Family Privacy, Social Privacy and Individual Privacy. Social Privacy can again be classified into Political or Legal Privacy, Professional Privacy and Community Privacy. But, the classification of Privacy is not an exhaustive one; it may change according to changing time, place and society. Also, the classification is not based on water-tight compartments and is overlapping with each other.

The idea of Privacy is embedded in its nature and basis. The nature of Privacy is characterized by freedom of individual human beings from any outside

interference. Accordingly, Privacy is nothing but the exclusion of all others from various aspects of the life of an individual human being. Hence, the nature of Privacy is embedded in the ideas of freedom and exclusion.

Though there may be various kinds of Privacy Torts, but in all cases, only one right is violated, i.e. right to live with human dignity. Another name for that right is 'inviolate personality.' Hence, it can be said that, whatever may be the nature of privacy violation, ultimately the 'inviolate human personality' is violated. In this sense, to protect right to privacy means, to protect inviolate personality of individual human beings, without the protection of which the Right to Privacy can never be protected. Hence, the basis of Privacy is nothing but the 'inviolate personality' of human beings.

As the idea of Privacy centres around the concept of 'private space,' therefore, the amount of private space which everyone should enjoy freely and the time limit of outside interference over it, will be the scope, ambit and extent of Privacy. On the contrary, significance of Privacy means, the importance of Privacy in a civilized society.

The significance of Privacy can again be sub-divided into two parts – Difference between Privacy and Right to Privacy and Whether Privacy is a Public Right or Private Right. In this sense, Privacy is a condition and hence, it may be foregone, forfeited or invaded. A Right to Privacy includes the notions of control and voluntariness in denoting individual's claims of entitlement to the recognition of their interests in Privacy.

Privacy also has various effects. The effects of Privacy means, prevention of unwanted publicity and interference into human life to protect human dignity by recognition and enforcement of Right to Privacy in a complex social structure.

Over and above, Privacy has to perform different functions in a civilized society. According to Prof. Alan F. Westin, the Functions of Individual Privacy are Personal Autonomy, Emotional Release, Self Evaluation and Limited and Protected Communication. The functions of Privacy play an important role to protect personal autonomy by preventing unlimited and unprotected communication of information, which ultimately protect the right to live with human dignity in a modern democratic society.

The functions of Privacy propounded by Prof. Alan F. Westin can be criticized on the point that, these functions should equally be played during social transformation from primitive to modern or civilized society also. Otherwise, the utilization of those functions would be incomplete. Last but not the least, the functional justification of Privacy as a basic human right is derived from the purpose it serves while protecting individuals from various emotional disturbances, like anxiety, humiliation, embarrassment, disgrace, inconvenience, annoyance, shame and indignities.

The origin of Right to Privacy can be traced back in U.K. to the famous English Case of *Prince Albert vs. Strange, 1848*, where privacy of royal couple Queen Victoria and Prince Albert, was violated by a photographer Strange in their private premises. In U.S.A., *Boyd vs. United States, 1886*, is an important case on Right to Privacy. In this case, it was held that, the purpose of prohibition against unlawful searches and seizures under Fourth Amendment of the U.S. Constitution were to protect security and privacy of persons, houses, papers and effects.

India also had a great historical background and a well-advanced law of privacy since the ancient period. In India, the origin of Privacy was found in the ancient Hindu Jurisprudence, in the description of houses in Grihya-Sutras, Kautilya's Arthashastra and the epics of Ramayana and Mahabharata. In the medieval period, Privacy was found in the habit of observing 'purdah' among the Muslim women to prevent public exposure of their faces.

The development of Right to Privacy in India in the modern period has been marked by a very old case, *Nuth Mull vs. Zuka-Oollah Beg and Kureem Oollah Beg, 1855*. It has been the first Indian case decided by the Sadar Diwani Adalat of the North-Western Provinces, in 1855, where the question of Right to Privacy has arisen. This case shows the evidence that, the Right to Privacy has been broadly recognized in India at least half a century before the U.S.A., where the idea has come in 1890 by the publication of the Warren-Brandeis article. It has been held by the Court in this case that, construction of a house should not be made in such a way, so that, the others premises may be looked into from the roof of the new house and thereby their Right to Privacy is violated. Hence, Customary Right to Privacy has been protected in India since the very old period.

In the absence of express legislative enactments, the law of Privacy has been gradually developed by judicial pronouncements since the very old past in the countries of U.S.A., U.K. and India. In U.K. and U.S.A., it was based on the Law of Confidence, whereas, in India, it was considered as a Customary Right. However, in the International arena, Right to Privacy has become a matter of discussion since the adoption of Universal Declaration of Human Rights, 1948.

With the advancement of modern science and technology, the scope and ambit of Right to Privacy has been expanded to a considerable extent. Though the right has got many new dimensions in the modern age, but it is not a right of recent origin, rather it has a great historical background and has been originated in the very old past.

The term 'Privacy' is derived from the Latin word 'privatus' which means separated from the rest. Though it is a variable concept and varies with cultural or social context, but actually it means, the right to be left alone. The need for Privacy is to create a balance between individual and social interests, which is equally applicable to past, present and future society. In this sense, the necessity of Privacy was found in the dawn of human civilization. The idea of Privacy is as old as Biblical periods. Also the growth and expansion of Privacy varied according to the variation in different stages of human civilization. Hence, the description of origin and history of Right to Privacy should proceed from the ancient period to the modern period. In fact, the idea of Privacy was originated in the animal society and gradually it has been incorporated into the human society.

The idea of Privacy, which was originated in the animal society, has been adopted in the primitive human society, where the traces of it were first found. According to different Anthropological studies, the idea of Privacy varied in respect of different primitive societies. With the evolution of primitive society to ancient society and then gradually to modern society, the idea of Privacy has been developed to get its present shape. The root of Privacy and its protection is embedded in the history of human civilization, which is characterized specially by transformation of primitive society into modern society. The social transformation has increased both the physical and psychological opportunities for Privacy and also proved to be fruitful for conversion of these opportunities into choices of values in

the context of socio-political reality. Social transformation is the responsible factor for changing nature of Privacy as well as the changing character of Privacy violations from primitive societies to modern societies.

The comparison of 'Privacy' between primitive and modern societies, establishes that, whatever may be the nature of society, primitive or modern, the need for Privacy or seclusion would always be there, for fulfilment of physical and psychological desires of man. The history of Privacy in the Western society starts from the evolution of Western political and social institutions since the time of Greek and Roman civilizations. The history of Privacy in modern democratic society is characterized by its political system, which plays the fundamental role for shaping its balance of Privacy. The comparative analysis of Privacy in different Western societies and cultures show that, Privacy is not a static, rather a dynamic concept. For creating an ideal modern society having the Right to Privacy, there should be a balance between the basic postulates of Individual Privacy, called Solitude, Intimacy, Anonymity and Reserve.

The origin of Privacy in ancient India was culminated into the term 'Avarana', in the idea of Meditation in Vedas and Upanishads and embedded in the idea of 'Dharma'. The history of Privacy in India was divided into the Hindu and Muslim periods, both of which were enriched with the rules and regulations of Privacy. Privacy was never an alien in India; rather it was embedded in the deep rooted custom of the rich cultural heritage of India. The development of Right to Privacy in U.S.A. in the modern period has been based on the Warren-Brandeis article and the search and seizure cases under Fourth Amendment of the U.S. Constitution, the final result of which is the Privacy Act, 1974. U.K. had no law of Privacy; instead there was the law of breach of confidence. With the help of various legal developments, the Younger Committee Report was submitted in 1972, the final outcome of which is the Data Protection Act, 1998. Though India is lagging far behind U.K. and U.S.A. for protection of Privacy in the modern period, but it is also enriched with various legislative and judicial developments, which ultimately has given rise to the Right to Privacy Bill, 2011, now known as Privacy Bill, 2014.

Right to Privacy is not a narrower local or regional human right, rather its scope and extent have been broadened so much that, it covers a wide range of

globally accepted human rights within its periphery. In fact, Right to Privacy is considered as a global phenomenon in the modern age. It has international recognition and is effective in all parts of the world. International recognition of Right to Privacy has been started just after the end of Second World War and the establishment of United Nations in the year 1945. It has got a remarkable development under the auspices of the United Nations. Presently, it is an internationally acclaimed human right. As such, it is incorporated as an important human right in numerous International Instruments. In this respect, it has a great international legal perspective.

In the international human rights law, 'Privacy' is clearly and unambiguously established as one of the basic human rights in 1948 with the proclamation of the Universal Declaration of Human Rights. The importance of Privacy as a human right and its need for legal protection has been given in the various other international instruments, like the International Covenant on Civil and Political Rights, 1966 and the International Covenant on Economic, Social and Cultural Rights, 1966. In the regional level, there are also various human rights Conventions, which deal with the protection of Right to Privacy. Important conventions among them are the European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950, the American Convention on Human Rights, 1969, the African Charter on Human Rights and People's Rights, 1981 and the Asia-Pacific Privacy Charter, 2003.

Apart from the International and Regional legal instruments, Municipal Laws of various Countries are well-advanced on Right to Privacy. The Municipal Laws of different Countries can be divided into the Privacy Laws of Common Law Countries, Civil Law Countries and the Nordic Law Countries. A few other countries are also remaining, the Privacy Laws of which are important in this respect. Moreover, Privacy Laws are found all over the world in an all-round manner. In the modern period, the significance of Right to Privacy has been understood by all legal systems in the world and as such, the laws of Privacy enacted by them have become fruitful to portray the International Legal Arena of Right to Privacy.

The existence of Privacy in different parts of the world is not an isolated event but the outcome of a continuous process of development of Privacy all over the world. The study of Privacy from the social and cultural contexts helps to draw the contention that, Privacy is not a narrower local or regional right; rather it is a universal right having great significance in the context of mankind in general. In the present day society, Individual Privacy is recognized as a basic human right in all the developed and developing countries. In this sense, the internationalization of Privacy is required by prescribing certain norms of Privacy, which should be universally acclaimed and international in character. This process of internationalization of the Privacy Rights has already been started under the auspices of the United Nations all over the world.

Right to Privacy has assumed its universal character in 1948, since the proclamation of the Article 12 of the Universal Declaration of Human Rights. It has been supported by various other International and Regional legal instruments, which have tried to give this right a concrete shape in the context of the world at large. The internationalization of Right to Privacy has received a special significance by a number of Municipal legal instruments of worldwide recognition, like the Nordic Conference of Jurists, 1967 and the Younger Committee Report, 1972. Moreover, the international character of Right to Privacy is characterized by the ideas of Liberty and Human Rights, which are essential for giving it a concrete shape. These ideas have been recognized as the Privacy denoting factors in the international periphery with overwhelming consensus. In fact, in order to give effect to that recognition, this right has been incorporated as an important human right in various international, national and regional human rights instruments as well as separate legal instruments has been created governing Right to Privacy as a whole.

More specifically, the legal instruments for the protection of Right to Privacy can be categorized as the International Legal Instruments mostly made under the auspices of the United Nations, the Regional Legal Instruments and the Municipal Laws of different countries. The Municipal Laws of different countries can again be divided into the Laws of Common Law Countries, Civil Law Countries and Nordic Law Countries. The Privacy Laws of major Common Law Countries include the Laws of U.S.A., U.K., India, Australia, Canada and South Africa whereas; the major

Civil Law Countries in this respect are France, Germany and China. On the contrary, the major Nordic Law Countries having Privacy Laws are Sweden, Denmark and Norway.

The International Legal Instruments on Right to Privacy have tried to give protection to this right in an all-round manner, which have been made under the auspices of the United Nations and by way of adopting these instruments; United Nations has played a very important role for the protection of Right to Privacy in the international field. The regionalization of Right to Privacy is also necessary along with the universalisation of this right and for this purpose, various Regional Legal Instruments have been made, which have become fruitful for the implementation of this right in the regional level. As regards the Municipal Laws of different countries, the Privacy Laws of the Common Law Countries have been found to be well-developed. Though the Common Law Countries are enriched with Privacy Laws, but the Civil Law Countries are not lagging behind them and in fact, Civil Law Countries have, even more advanced Privacy laws under both the constitutional provisions and national legislations. The Nordic Law Countries are important for discussion, because of the Nordic Conference of Jurists, 1967, but practically, the Nordic Law Countries are not much concerned with Personal Privacy, rather they are mainly concerned with the Data Privacy and have enacted the Data Protection Laws.

Though the legal instruments for protection of Right to Privacy are important, but the division of this right into various components is noteworthy for a matter of discussion. Apart from Individual Privacy, there are various other components of Right to Privacy also, like Privacy of Family and Marriage, Privacy of Home, Privacy of Correspondence and Communication and Privacy of Honour and Reputation. The above-mentioned list is not exhaustive, rather inclusive in nature and as such, a number of other components may be found. But, the international and regional legal instruments have confined themselves into these components only and as such, component-wise discussion of those instruments is confined into these components only. Municipal Laws, in this respect have highlighted other components also, but these components are most noteworthy and most of the municipal laws have dealt with these elements. However, protection of

Right to Privacy in all round manner means the protection of all these components of Privacy worldwide, but, all the components are not adequately protected in every legal sphere. Most importantly, municipal laws of each and every country have not dealt with all the components equally; rather each and every country has dealt with one or two components only.

In this respect, the most important point is that, incorporation of Privacy provisions in the Municipal Laws of different countries have become fruitful for the enforcement of Right to Privacy and its various components throughout the world, because most of the international and regional legal instruments are not directly enforceable and can be enforced in indirect manner only by way of incorporating the provisions thereof, either in the national constitutions of different countries or by way of enacting national legislations for the implementation and enforcement of those rights. The inadequacy of municipal laws for protection of various components of Right to Privacy is the biggest problem in this respect and as such, enactment of comprehensive municipal legislations in this field is the need of the hour. Last but not the least, municipal laws are nothing but the extension of international and regional legal instruments, because most of the international and regional legal instruments are mere declaratory in nature, but the municipal laws are enforceable in nature.

Privacy has both positive and negative aspects. When the Right to Privacy is used for the benefit or betterment of the mankind as a whole, it is called Positive Right to Privacy. It means, one should lead a secluded life for the development of one's physical or mental integrity or intellectual quality. But, when the Right to Privacy is used for the destruction of mankind as a whole, like the leading of a secluded life for making a bomb or for the commission of suicide, it is called Negative Right to Privacy. Right to Privacy is a part and parcel of Right to live with Human Dignity. As such, it would always be used for the beneficial perspectives and not for the destructive perspectives. Human beings are social beings, they cannot live alone. In this sense, leading a social life is the very basis of social nature. Though Right to Privacy gives us the freedom to enjoy a secluded life, but that does not mean that, a human being should be left alone by the society to lead a destructive life. It is the duty of the society to look after a person remained secluded

for a long time. In this sense, Right to Privacy is a limited Right and can always be curtailed in the public interest as well as for the larger benefit of the mankind as a whole. This is the bottom line of Right to Privacy and the States should follow this bottom line while enacting legislations on Right to Privacy. The three important countries, whose Privacy protection laws are the matters of discussion hereunder, are U.S.A., U.K. and India; all of whom have tried to legislate on Right to Privacy keeping in mind the above-stated bottom line.

Privacy is a component of Freedom, without the protection of which, guarantee of Freedom remains incomplete. Freedom or Privacy should not be absolute and in this respect, the question of dichotomy between privacy and public interest comes into picture. Protection of both Individual Right to Privacy and State's Right to Information is the urgent need of the hour. Total freedom is a utopian concept, the achievement of which is practically impossible. Absolute solitude or seclusion is called the negative aspect of Privacy, which may lead to disastrous effects. When Privacy brings good to all human beings in general and does not become deadly or futile for anyone, then it is called positive aspect of Privacy and it is permissible. Positive aspects of Privacy are welcomed in a civilized society, where stress is given only on the prevention of unwanted publicity of one's private life. True spirit of the Privacy should be to protect oneself from unwanted publicity and consequential harassments.

Right to Privacy, although had never been guaranteed in the United States as a Constitutional Right, but had been judicially examined therein. With the progress and development of the new American nation, called U.S.A., the growth of Privacy protection laws have been occurred concurrently. There have been six phasic or periodic developments of Right to Privacy in U.S.A. The present Privacy laws in U.S.A. can be categorized as the *U.S. Constitution, 1787, the Federal Privacy Laws and the State Privacy Laws.* The U.S. Federal and State Legislatures have enacted various legislations covering various aspects of Right to Privacy, so that, each and every component of this right would be protected.

At the very beginning, English laws were very slow and unwilling to develop Laws of Privacy. Gradually with the passage of time, recognition of this right came into being with the hands of the judiciary. In comparison to U.S.A., Privacy laws are

not much enriched in U.K. In fact, there has been no existence of Privacy Laws in U.K. before the passing of the *Human Rights Act, 1998 and Data Protection Act, 1998.* Apart from the Common Law protection of Privacy in U.K., there are various statutory provisions enacted in the present era, few portions of which are directly applicable for the protection of Right to Privacy.

Right to Privacy in India is not of recent origin; it is an age-old concept and can be traced back from ancient Indian society. In fact, there are several customary rules prevailing in India which protect Privacy interest of an individual. Apart from that, constitutional provisions have provided protective umbrella to this right in indirect manner. Besides customary rules and constitutional provisions, several other statutes recognise Right to Privacy directly or indirectly in India. Privacy as a Customary Easement right was recognized in India since the very beginning in the *Indian Easements Act, 1882.* The main articles relating to protection of Privacy under the Indian Constitution are *Articles 19 and 21.*

The important statutory enactments in this respect are *the Indian Penal Code, 1860, The Indian Evidence Act, 1872, the Indian Post Office Act, 1898, the Official Secrets Act, 1923, the Special Marriage Act, 1954, the Children Act, 1960, the Medical Termination of Pregnancy Act, 1971, the Press council Act, 1978, the Indecent Representation of Women (Prohibition) Act, 1986, the Information Technology Act, 2000, the Right to Information Act, 2005 and the Juvenile Justice (Care and Protection of Children) Act, 2015.*

The components which have been attracted in this respect are Privacy and the insult on the modesty of women, Privacy of matrimonial proceedings, Privacy and Law of Evidence, Privacy of Correspondence under Indian Postal System, Privacy of Governmental Secrets, Privacy of Children, Privacy of Women, Privacy of the Press vs. Privacy of Public Figures, Privacy vs. Information Technology, Privacy vs. Right to Information and Privacy of the Juveniles.

A Comparative Analysis of the Privacy protection laws of U.S.A., U.K. and India projects the idea that, though India has started protecting Right to Privacy prior to U.S.A. and U.K., but in the present social scenario, it is lagging far behind the other two countries, inspite of having strong Customary Laws of Privacy since the ancient period.

The most important point about all these legislations is that, all the three countries have highlighted the aspects of Data Protection, because in the midst of the era of Information and Communication Technology, none of the countries can go far without the storing and processing of huge computerised personal data. At this juncture, a serious threat lies with the protection of Privacy of those personal data or information. Another important issue is the over-encroaching press and media into human lives. Today, Press is gaining so much freedom that, Press freedom becomes a cause for violation of Privacy of the Public figures. As such, Press freedom should necessarily be curtailed in the interest of the general public. In this respect, all the countries are adopting Code of Conduct for the journalists and the electronic media and India is not an exception to it. Again, another important issue prevails and that is the dichotomy between Right to Privacy and Right to Information. Countries are adopting Right to Information Acts to end this dichotomy. India has also enacted such legislation to determine the line of control between the information to be communicated in the general public interest and the information to be kept secret to maintain the Individual Privacy. In fact, creation of a perfect balance among all these interests of the society is the root of a democratic civilized society and the countries concerned are striving towards reaching such excellence in their respective fields by way of enacting the Privacy protection legislations.

The role of judiciary enhancing Right to Privacy in U.S.A., U.K. and India has shown that, U.S.A. is the first and foremost country, which has recognised Right to Privacy in most scientific manner with the help of U.S. Judiciary. It is the most advanced country in the world with respect to the judicial development and protection of Right to Privacy. In comparison to U.S.A., U.K. is lagging far behind in the field of Privacy protection, because it has recognised it only under the law of confidence and not otherwise. However, as regards judicial protection of Right to Privacy, U.K. is totally based on the case by case development of this right. But, it has not recognised it as a fundamental right, because it has no written constitution or a Bill of Rights unlike U.S.A. From this perspective, India is the follower of U.S.A. and has developed Right to Privacy as a fundamental right by recognising it as a part of personal liberty within the meaning of *Article 21 of the Indian Constitution* with the help of Indian judiciary. India has started its initiative long after U.S.A. and in

this respect; India is lagging far behind U.S.A. But, activeness is far better than inactiveness and as such, the initiative taken by India for protection of Right to Privacy by way of judicial development is praiseworthy.

Positive aspect of Privacy is always used for the benefit of the mankind and as such, it is related to the use of seclusion or solitude for some creativity beneficial for the mankind. Negative aspect of Privacy is always used for the destruction of the mankind and therefore, it is related to the use of seclusion or solitude for some creativity devastating for the mankind. Privacy may be used for both good and evil purposes. Whether a particular society would use Privacy for good purpose or evil purpose that depends upon the tastes and habits of the people living therein as well as the nature and circumstances of each case. Jurists have supported the enjoyment of positive aspects of Privacy, beneficial for the mankind as a whole and have rejected the negative aspects of Privacy destructive to the mankind in general. On the basis of this bottom-line of the Privacy Principle, the judiciary in U.S.A., U.K. and India, has pronounced judgments for protection of Right to Privacy**.**

The role of judiciary in a democratic society is to bring social change with the help of judicial creativity and law reform. Judicial activism and judicial creativity have been the main recourse for protection of Right to Privacy in U.S.A., U.K. and India. In this respect, the Supreme Courts of U.S.A. and India as well as the Human Rights Courts of U.K. have taken active steps. Without the judicial intervention into the matter, the protections of various aspects of Right to Privacy have not been possible in these countries.

Since the publication of the *Warren-Brandeis* article in U.S.A., the U.S. Supreme Court has taken active steps for protection of Right to Privacy therein. Since the decision of the *Prince Albert v. Strange* case in U.K., everybody has felt the necessity of Privacy protection therein and U.K. judiciary has started to take initiatives in this respect. The Indian judiciary has taken active steps for protection of Right to Privacy both in the pre-independence and post-independence era. In the pre-independence era, *Nuth Mull v. Zuka-Oollah Beg* case is noteworthy, which has established the Customary Right to Privacy in India. In the post-independence era, *Kharak Singh v. State of U.P.* case is noteworthy, because it has established the

Constitutional Right to Privacy in India and has granted it the status of fundamental right.

Regarding the judicial recognition of Right to Privacy, U.S.A. is the forerunner, which has started its initiative since the *Boyd v. United States* case in *1886.* But, Right to Privacy has come out as a comprehensive right in U.S.A. in the *Griswold v. Connecticut* case in *1965*. Judicial development of Right to Privacy in U.S.A. has touched various components of Privacy, like *Fourth Amendment prohibition against unlawful searches and seizures, use of contraceptives, Right to Abortion, First Amendment protection of Freedom of Speech and Press, Marriage, Procreation, Children and Family Relationship, Information Technology, Homosexual relationship etc.*

Judicial development of Right to Privacy in U.K., though has been started since *1849* from the *Prince Albert v. Strange* case, but has actually been flourished after the establishment of the *European Court of Human Rights* and the enactment of the *Human Rights Act, 1998***.** The U.K. Courts have touched various components of Privacy, like *Breach of Confidence, Trespass, Human Rights, CCTV Footage, Freedom of Expression and Information Technology*. Apart from *Prince Albert v. Strange, Kaye v. Robertson, 1991* is an important English case, which has established Right to Privacy in U.K. as against trespass.

In India, though the Customary Right to Privacy has been established by the *Nuth Mull v. Zuka-Oollah Beg* case in *1855,* but it has been rested in the strong footing in the case of *Gokal Prasad v. Radho in 1888.* A number of cases have also been decided on the issue of Privacy and the Purdah System in India, among which *Nihal Chand v. Bhagwan Dei, 1935* is noteworthy. In the post-independence era, Fundamental Right to Privacy has been established as a personal liberty with the help of cases like *Kharak Singh v. State of U.P. in 1963, Govind v. State of M.P. in 1975, State of Maharashtra v. Madhukar Narayan Mardikar in 1991, R. Rajagopal v. State of Tamil Nadu in 1995, People's Union for Civil Liberties v. Union of India in 1997* and so on.

The Indian judiciary has also touched various components of Privacy for its judicial development, like *Search and Seizure, Police Surveillance, Dignity of Women, Natural Modesty of Women, Defamation and Freedom of Expression,*

Telephone-Tapping, Restitution of Conjugal Rights, HIV/AIDS Infected People, Medical Tests and Right to Information.

The comparative analysis of judicial activism of U.S.A., U.K. and India has projected the idea that, Indian judiciary has been enriched with both the U.S. and U.K. judicial precedents regarding the protection of Right to Privacy, still India is lagging far behind the other two countries on the issue.

Moreover, the Researcher may provide concluding remark regarding the paths followed by the judiciary in the three countries. Indian judiciary has followed the path of U.S. judiciary for development of Right to Privacy in India, but has started such development long after the U.S. developmental process. In this sense, Indian judicial development of Right to Privacy is still in the process of development and has a long way to go. After conducting a comprehensive study of judicial enhancement of Right to Privacy in U.S.A., U.K. and India, the Researcher can finally place a concluding remark that, the process is not a static; rather a dynamic process in all the countries and as such, there is always a scope for future betterment in all the three countries regarding the judicial protection of Right to Privacy.

The outstanding facets, dimensions and current trends of Right to Privacy in U.S.A., U.K. and India have given the idea that, these three countries are facing many new challenges against the protection of Right to Privacy at the verge of invention of advanced scientific technologies as well as the storing and processing of huge amount of computerised data and thereby need adequate legislative and judicial intervention into the matter. All the three countries have played an important role in this respect, according to their limited capacities to solve problems. But, the extensive legislative and judicial intervention into the matter has sometimes created certain negative impacts on the society, owing to which many new debatable issues have been cropped up. Some of those issues have been solved, but some are still pending, having hoped to be solved in near future. Moreover, Right to Privacy is a limited right and its limitations should always be remembered at the time of enacting any legislation or pronouncing any judgment for its protection. Due to this reason, absolute protection cannot be provided to Right to Privacy at any time. A comparative analysis of the outstanding facets and dimensions of Right to Privacy in

U.S.A., U.K. and India has provided that, U.S.A. is the country having strongest protection of Right to Privacy in comparison to other two countries.

The idea of Privacy is culminated into the concept of Freedom. Various jurists have opined that, Privacy means freedom from unauthorised interference into one's private life. Enjoyment of Privacy is impossible in the environment of absence of individual freedom. Individual Freedom is not absolute and always subjected to law and legal control. But, Individual Freedom or Right to Privacy can be curtailed by just, fair and reasonable legal procedure acted in accordance with the principles of natural justice. Every civil society should try to create a balance between Individual Privacy and larger social interest for the peaceful co-existence of each and every individual in the civil society. Privacy, Freedom of Information and Publicity, these are the three essential attributes of a modern democratic society and the peaceful co-existence of a modern democracy depends upon the creation of a balance between the three. As such, every modern society has tried to protect these three rights by enacting legislations and pronouncing judgments in this respect.

In the contemporary social scenario, a number of problems have been cropped up relating to various aspects of Right to Privacy which are closely associated with modern social life. In the present day society, human beings are subjected to various new habits and tastes owing to social change, which have created either threats on Right to Privacy or on human life and dignity. Such problems have also given birth to many new dimensions of Right to Privacy, which are non-existent in the previous century. Those are generally called the outstanding facets of Right to Privacy, because without addressing to those threats and challenges, any discussion on Right to Privacy would remain incomplete. More specifically, these areas are *Privacy vs. Private Life, Privacy of Women, Privacy of Children, Privacy vs. Scientific and Technological Developments* as well as *Data and Information Privacy.*

As regards the outstanding facets, U.S.A. has not recognised the Right to respect for Private Life, rather it has recognised Right to Privacy. U.S.A. is equally strong in the protection of Right to Privacy of Women, Privacy of Children, Privacy at the verge of advanced scientific technology as well as Data or Information Privacy. U.K. has not recognised Right to Privacy; rather it has protected the Right

to respect for Private Life. U.K. has neglected the Right to Privacy of Women and Children, but has tried to protect Right to Privacy at the verge of advanced scientific technology and Data or Information Privacy. India has recognised Right to Privacy, rather than Right to respect for Private Life. In India, Right to Privacy of Women and Children is protected by legislative and judicial initiatives. But, India lacks its initiatives for protection of Right to Privacy at the verge of advanced scientific technology and Data or Information Privacy.

Legislations and judicial decisions on outstanding facets have created *many* new debates on Right to Privacy in the contemporary social scenario. Such debates have occurred in the areas of *Freedom of Information, Right to Information and Right to Privacy, Privacy and Biometric Enabled National ID Cards, Privacy versus Sting Operation, Privacy versus Narco-Analysis, Polygraph Test and Brain-Mapping* as well as the *Privacy versus LGBT Rights.* Right to Privacy is not an absolute right and limitations can be imposed on it on the grounds of *Public Interest, Public Figure, Public Record, Public Disclosure, Consent, Privilege, Newsworthiness, Freedom of Information or Right to Information* and *Administration of Criminal Justice.* Limitations on Right to Privacy can also be imposed on the grounds specified under *Article 19(2) of the Indian Constitution.*

The comparative analysis of outstanding facets, dimensions and current trends of Right to Privacy as well as the contemporary debates on Right to Privacy provide the idea that, U.S.A. is the strongest country regarding Privacy protection, U.K. is at the middle level and India is a novice country with respect to the measurement of such protection.

Last but not the least, the Researcher may also provide concluding remark that, continuous process of social change is giving birth to many new technologies and new infrastructures in our daily lives, which are posing threats to our well-acclaimed human rights and Right to Privacy is not an exception to it. Daily challenges towards this right give birth to many new dimensions of Right to Privacy, which is again increasing judicial activism in the field of Right to Privacy. As such, many new cases are coming out, like *Obergefell v. Hodges, AMP v. Persons Unknown, Naz Foundation v. Govt. of NCT of Delhi, Suresh Kumar Koushal v. Naz Foundation* and *Justice K. S. Puttaswamy v. Union of India.* In this sense, Right to

Privacy is not a static, rather a dynamic right and constant social progress and development is responsible for the ever-growing and never-ending process of development of Right to Privacy. But, Right to Privacy is a limited right and hence, it could never come as an impediment on the process of administration of justice in any society.

On the basis of the above contention, the Researcher may Sum-Up the Findings of the Study in the following manner :-

(i) Privacy has been recognised as a Customary Right in India since the ancient period, whereas, no such recognition of Customary Right to Privacy has been found in U.S.A. or in U.K. since the ancient period.

(ii) The Customary Right to Privacy has got statutory recognition in India under the *Indian Easements Act, 1882*. Though the said law is enacted by the British Government, but the same law has been absent in U.K. and U.S.A.

(iii) In India, Privacy has been developed as a Customary Right in the principles of construction of houses, but in U.S.A., it has been developed as the principle of ancient light. The U.K. law is silent in this respect.

(iv) In India, Customary Right to Privacy has been established as a statutory right under the *Indian Easements Act, 1882,* whereas, in U.S.A., it is established by way of judicial development. U.K. has always been reluctant to recognise this right.

(v) In U.K., Privacy has been recognised as a tort under the law of confidence. In U.S.A., it has also been recognised as a tort, but not under the law of confidence. *William Prosser* has created a separate *Privacy Tort* by way of judicial development. In India, there is also the existence of Privacy Torts, but in implied manner.

(vi) U.K. has never considered Right to Privacy and has always tried to provide remedy on the ground of breach of confidence in the cases of violation of Privacy. U.S.A. has also been reluctant to consider Right to Privacy at the very beginning, but has never recognised the ground of breach of confidence. In India, there has been the existence of Customary Right to Privacy and not the breach of confidence.

(vii) In U.S.A. the originator of Right to Privacy has been the *Warren-Brandeis Article of 1890.* In U.K., the originator of Privacy has been the *Prince Albert v. Strange Case of 1849* and in India, the originator of Privacy has been the *Nuth Mull v. Zuka-Oollah Beg case of* 1855.

(viii) In U.S.A., Right to Privacy has got constitutional protection under various amendments of the *U.S. Constitution.* In U.K., in the absence of written constitution, constitutional protection of Right to Privacy is totally absent. In India, constitutional protection of Right to Privacy is also available in limited manner under the *Indian Constitution.*

(ix) Constitutional protection of Right to Privacy is similar in U.S.A. and India, because in both the countries, express constitutional guarantee of Right to Privacy is unavailable and it is the sole creation of judiciary. But, in U.K., absence of written constitution has created the reluctance of judiciary to recognise this right.

(x) At the time of making the Indian Constitution, the Constituent Assembly has tried to incorporate Right to Privacy directly within the Indian Constitution in line with the *Fourth Amendment of the U.S. Constitution.* But, due to absence of unanimity, this right has not been incorporated directly. No such initiatives have been found in U.K. due to the absence of written constitution.

(xi) But, the right similar to *Fifth Amendment of the U.S. Constitution* has been incorporated under *Clause (3) of Article 20 of the Indian Constitution,* which provides protection to the Privacy of Personal Liberty. Again, U.K. laws are silent in this respect.

(xii) In U.S.A., the root of constitutional protection of Right to Privacy has been the *'Right to Literary Property',* which is unavailable in U.K. and India.

(xiii) The *Warren-Brandeis* concept of *'Right to Inviolate Personality'* of U.S.A. has been incorporated under *Article 23 of the Indian Constitution* to protect personal autonomy and individual personality. Both the provisions are guarantors of Individual Privacy, which are absent in U.K.

(xiv) *William Prosser's Privacy Tort of 'appropriation of one's name or likeness'* available in U.S.A. has been incorporated under *Section 3 of the Emblems and Names (Prevention of Improper Use) Act, 1950* in India, which provides protection to Right to Individual Privacy and Privacy of Personality by prohibiting the improper use of one's name or identity. Similar provision is also available under the *Nordic Conference of Jurists, 1967,* by mentioning the heads *'use of one's name, identity or likeness.'* In this respect, Indian laws are far better than the Western laws, because what the *Nordic Conference* has incorporated in *1967, India* has

incorporated in *1950.* U.K. has also the similar provisions available under the Common Law Tort of Breach of Confidence and Trespass to Person.

(xv) U.S.A. has enacted a comprehensive law on Privacy by making the *Privacy Act, 1974,* whereas both U.K. and India have not enacted any such comprehensive legislation. Their Privacy protection laws are scattered in a number of legislations enacted therein.

(xvi) Both U.S.A. and U.K. have enacted laws for protection of *Health and Medical Privacy,* which India is lacking.

(xvii) But, both U.K. and India have enacted *Official Secrets Acts, Telecommunications Privacy Laws, Press Complaints Commission or Press Council Codes of Conduct* as well as *Protection of Freedoms Act, 2012* in U.K. and *Right to Information Act, 2005* in India. On the contrary, U.S.A. has enacted the *Freedom of Information Act, 1966* to provide a comprehensive protection covering all these aspects.

(xviii) When U.S.A. has enacted the *Privacy Act, 1974,* U.K. has been reluctant to do so as evidenced from the *Younger Committee Report, 1972.* India has been lagging far behind them at that point of time.

(xix) U.K. has started its Privacy protection initiatives in *1998* by enacting the *Data Protection Act and Human Rights Act.* Such initiative has been taken by U.S.A. long before by enacting the *Privacy Act, 1974.* India has just started these initiatives by drafting the *Privacy Bill, 2014* and the *Personal Data Protection Bill, 2014.*

(xx) *Maintenance of Privacy and Secrecy in Matrimonial proceedings* by conducting *in camera proceedings* has been established as a legal principle in U.S.A. and U.K. by way of judicial development. India has incorporated this provision under all the matrimonial statutes, like the *Hindu Marriage Act, 1955, the Special Marriage Act, 1954 and the Divorce Act, 1869.*

(xxi) In comparison to U.S.A., Right to Privacy has not been much developed in U.K., because there has been the attitude of governmental control of private lives and reluctance to adopt new things found since the olden days. On the contrary, India has followed the path of U.S.A.

(xxii) U.S.A. has been freed from British Colonialism long ago and since then; it has tried to develop its own legal system based on new liberal thinking. But, U.K. has remained conservative since long time. India has been freed from British Colonialism later on and therefore, its legal system is still based on the English Legal System, inspite of following the path of U.S.A.

(xxiii) The judges of the U.S. Supreme Court have been much more modern and liberal to accept new legal principles or to give new shape to age-old Common Law principles by way of judicial interpretation, whereas, U.K. Courts have always shown their orthodox attitude. In this respect, Supreme Court of India has followed the path of U.S. Supreme Court.

(xxiv) U.S. judiciary has upheld the civil or individual liberty above all, which has established the protection of Right to Privacy therein in the strong footing. But, U.K. judiciary has always shown the state control over the individual or civil liberties, which has been the main reason for underdevelopment of Right to Privacy therein. Indian Judiciary, on the contrary, has followed the U.S. judicial precedents in order to establish Right to Privacy in full-proof manner.

(xxv) Presence of a strong written Constitution and Bill of Rights has helped the growth of Right to Privacy in U.S.A., whereas, in the absence of both these elements, this right has not flourished in U.K. Again, presence of written Constitution and Fundamental Rights has led to the growth of Right to Privacy in India.

(xxvi) The relationship between Privacy and law of confidence has been first established in *Prince Albert v. Strange, 1849* case in U.K., on which the foundation of elaborate edifice of the law of Privacy in U.S.A. has been based. But, in India, the first case on Right to Privacy has been the *Nuth Mull v. Zuka-Oollah Beg, 1855* case.

(xxvii) The decision of *Prince Albert v. Strange, 1849* case in U.K. has encouraged the U.S. lawyers *Warren-Brandeis* to write their article on Right to Privacy. But, the Indian judiciary has its own precedent of the *Nuth Mull v. Zuka-Oollah Beg, 1855* case.

(xxviii) In this sense, the English law has been enriched in the roots, but has not been developed accordingly like the American law to suit the needs of the changing social

scenario. Similarly, Indian law has been enriched in the ancient period, but has been deteriorated in the modern period.

(xxix) U.S. judiciary has tried to provide concrete protection of Right to Privacy under various amendments of the U.S. Constitution. But, the U.K. judiciary has always tried to negate Right to Privacy by providing remedy on the ground of breach of confidence in Privacy violation cases. However, Indian judiciary has followed the path of U.S. judiciary in order to provide constitutional protection of Right to Privacy.

(xxx) U.K. is lagging far behind U.S.A. regarding the case by case development of Right to Privacy, because what U.S.A. has done in the *20th Century*, U.K. is doing in the *21st Century*. India has also started such initiative in the *20th Century*, but is still lagging far behind U.S.A., because of its lack of awareness and social scenario regarding Privacy protection laws.

(xxxi) The whole development process of Privacy protection has been made under the auspices of judiciary in India and no such Privacy Act has been enacted herein like U.S.A. U.K. is lacking both the legislative and judicial protection of Right to Privacy.

(xxxii) The existence of *Nuth Mull v. Zuka-Oollah Beg, 1855* case has not only shown presence of Right to Privacy in India earlier than U.S.A., but also the following of English principle of violation of ancient light. This principle has also been followed in U.S.A. later on.

(xxxiii) Search and seizure has been an important issue regarding the violation of Right to Privacy under the U.S. Constitution, which has been developed since the *Boyd v. United States, 1886* case. Indian judiciary has tried to establish Right to Privacy in the same line as has been reflected in the *M.P.Sharma v. Satish Chandra, 1954* case. U.K. judiciary has followed a different path.

(xxxiv)U.K. judiciary has provided remedy for violation of Privacy on the ground of trespass, even in the recent period, in the case of *Kaye v. Robertson, 1991*. On the contrary, both U.S.A. and India have concentrated on the constitutional development of Right to Privacy.

(xxxv) Even after the passing of the *Human Rights Act, 1998*, U.K. judiciary has shown its reluctance to consider Right to Privacy as a human right. *Douglas v.*

Hello!, 2001 is the reflection of such contention. In the meantime, U.S. and Indian judiciary have developed a general Constitutional Right to Privacy in the cases of *Griswold v. Connecticut, 1965 and Kharak Singh v. State of U.P., 1963* respectively. **(xxxvi)** Both U.S. and Indian judiciary have recognised Right to Privacy as a Fundamental Right, but U.K. has never recognised it; rather it has recognised Right to respect for Private Life.

Therefore, in view of the Present Study and Findings derived from this work, Conclusion can be safely drawn as follows :-

(I) The first outstanding facet, called Right to respect for Private Life is protected only in U.K., whereas, Right to Privacy is protected in U.S.A. and India.

(II) Next come to the question of Right to Privacy of Women, which has got good amount of protection in U.S.A. and India both in the legislative and judicial field. But, it has got limited protection in U.K. only in the legislative field.

(III) Next element is the Privacy of Children, which has got good amount of legislative and judicial protection In U.S.A. But, it is neglected in U.K. India is concerned with the protection of this right, but not as much as of U.S.A. The concern is morefully raised only in the recent period.

(IV) The protection of Privacy at the verge of scientific and technological developments has raised more concern in U.S.A. through legislative and judicial development. U.K. has also enacted few laws and pronounced judgments in this respect. Even India has enacted little legislation in this respect, but judicial development has not been made to such extent.

(V) Data or Information Privacy is well-protected in U.S.A. since *1974,* U.K. has started such protection since *1998,* but India is still a novice on the issue. It has just drafted few bills on the subject in *2014.*

(VI) Regarding the contemporary debates, both U.S.A. and U.K. have recognised Freedom of Information, whereas India has recognised Right to Information.

(VII) U.S.A. has enacted the *Freedom of Information Act* in *1966,* U.K. has enacted the *Freedom of Information Act* in *2000,* but India has enacted the *Right to Information Act* in *2005.*

(VIII) *Snowden Case* is noteworthy in U.S.A., *AMP v. Persons Unknown* case is noteworthy in U.K. and *Vijay Prakash v. Union of India* case is important in India with respect to the issue of Privacy versus Freedom or Right to Information.

(IX) With respect to the issue of Privacy versus Biometrics Enabled National ID Card, both U.S.A. and U.K. have rejected the proposals for establishment of such system. But, India has established such system and created many new threats on Right to Privacy.

(X) The Biometric Enabled National ID Card is called *Aadhaar Card* in India, which is absent in U.S.A. and U.K.

(XI) The Supreme Court of India has recently pronounced a landmark judgment in the case of *Justice K. S. Puttaswamy v. Union of India* to resolve the dispute between Aadhaar and Privacy. No such initiatives are found in U.S.A. and U.K.

(XII) Sting Operation is practised in all the three countries of U.S.A., U.K. and India, but all these countries have resolved that, it should not be used by violation of Right to Privacy as against the need for crime detection. In this respect, the law is similar in the three countries.

(XIII) Narco-Analysis, Polygraph Test and Brain-Mapping are used as methods of crime detection in all the three countries, but all are of similar view in this respect, that these methods should not violate Right to Privacy. *Selvi v. State of Karnataka* case in India is noteworthy in this respect.

(XIV) Right to Privacy of LGBT persons is recognised in U.S.A. since long. Latest judgment on the issue therein is *Obergefell v. Hodges.* U.K. has started to recognise the right since *2005* and has established it in *2014.* Though India has never recognised the right previously, but has recognised it in the recent period. In this respect, the cases of *Naz Foundation v. Govt. of NCT of Delhi, Suresh Koushal v. Naz Foundation and Justice K. S. Puttaswamy v. Union of India* are noteworthy.

(XV) Limitations on Right to Privacy on the ground of Public Interest or Freedom of Press have been imposed in lesser amount in U.S.A. But, U.K. has always tried to limit Right to Privacy against the Freedom of Press. India is still in the developing stage on the issue and has not reached at any conclusion.

Last but not the least, U.S.A. is the land of civil liberties and as such, it has tried to protect Right to Privacy in full-proof manner as a personal liberty. U.K. has

recognised the Right to respect for Private Life and not the Right to Privacy. Therefore, this right is always neglected therein. India has followed the path of U.S.A., but has started its Privacy protection initiatives recently. Hence, its initiatives are only at the developing stage and no such full-proof protection is available till now.

In view of the above observations, few Suggestions may be put forward in order to provide appropriate remedy in the cases of Privacy violation as well as to establish Right to Privacy in the strong footing in U.S.A., U.K. and India. As such the following Suggestions may be cited:-

(1) Privacy is not a well-defined right in U.S.A., U.K. and India. Therefore, at first it should be properly introduced as a well-defined right in the three countries removing all the vagueness, because without defining a right in concrete sense, its protection cannot be possible in full-fledged manner.

(2) Express Constitutional protection of Right to Privacy is unavailable in U.S.A., U.K. and India, which is an impediment for its enforcement. Therefore, both U.S.A. and India should incorporate Right to Privacy as a Fundamental Right under their Constitutions. Time has come for U.K. to think seriously for adopting a written constitution, without which no human rights including Right to Privacy can be protected and guaranteed.

(3) Though various amendments of the *U.S. Constitution* have been recognised as the protectors of Right to Privacy therein by way of judicial interpretation, but that process is subjected to overruling and reversal of the judgment in several times. It prevents safe and sound guarantee of a legal right, which can only be established by a statutory protection. As such, express constitutional protection of Right to Privacy under a fresh amendment of the *U.S. Constitution* is the need of the hour.

(4) In India, Right to Privacy has been established as Fundamental Right under *Article 21 of the Indian Constitution* by way of judicial activism only. This has continued the debate on the recognition of Right to Privacy as a Fundamental Right, which can only be ended by incorporation of it as a Fundamental Right through constitutional amendment. Therefore, a new article, called *Article 21B* should be inserted with a title *"Right to Privacy"* in the *Part-III of the Indian Constitution.*

(5) Constitutional protection of Right to Privacy is not enough, statutory protection of it is also required. As such, a full-proof statute on Right to Privacy should be enacted. In this respect, the long standing *Privacy Bill, 2014* should be passed into an *Act*, otherwise strong punishment cannot be provided in the cases of Privacy violation.

(6) Besides Right to Privacy, another right is also important in the present social scenario, called the Right to Information, which is firmly established in India by the *Right to Information Act, 2005.* It has also incorporated protection of Privacy of Personal Information under *Section 8 of the Act.* But, without defining the four corners of this right in express manner and establishing this right as a Fundamental Right, the controversy between Right to Privacy and Right to Information cannot be ended. Implied recognition of this right as a part of Freedom of Speech and Expression under *Article 19(1) (a)* is not enough. Therefore, a separate clause should be added under *Article 19 of the Indian Constitution* titled *"Right to Information"* by way of constitutional amendment in India.

(7) The limitations of Freedom of Speech and Expression under *Article 19(2) of the Indian Constitution* should also clearly specify the cases wherein both Right to Privacy and Right to Information could be curtailed. Such clarification should also be made by constitutional amendment.

(8) In both U.S.A. and U.K., four corners of Right to Information should also be clarified by express constitutional protection; otherwise the enactments of *Freedom of Information Act, 1966* in U.S.A. and *Freedom of Information Act, 2000* in U.K. cannot perform in full-fledged manner.

(9) Both U.S.A. and U.K. have highlighted the areas of Data or Information Privacy by enacting the *Privacy Act, 1974* and *Data Protection Act, 1998* respectively. But, now they should seriously think about the protection of Individual Privacy and should legislate accordingly.

(10) Data of Information Privacy is a serious issue in the present social scenario. India should seriously think over the matter now. It has drafted the *Personal Data Protection Bill, 2014*, which is a contemporary legislative initiative no doubt, but now it should be passed into an *Act* in order to define Personal data clearly and to prevent the loss of Personal Data by way of providing strict punishment.

(11) One defect is found in the *Personal Data Protection Bill, 2014* in India; it covers only the cases of loss of personal data owing to the increase of Direct Mail Industries. Though it is a very serious problem and should be prevented, but the other cases of loss of Personal Data should be taken into account by the Indian Legislature.

(12) U.K. should also think about the protection of Right to Privacy, because only protection of Right to respect for Private Life is not enough. Violation of Right to Privacy is a serious matter in the present social scenario, which should also be redressed.

(13) U.K. has not implemented *Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950* in the *Human Rights Act, 1998* in the express manner till now. Such incorporation is the urgent need of the hour; otherwise both Right to Privacy and Right to respect for Private Life will suffer from serious violation therein.

(14) Privacy of Children has not been adequately protected in India like U.S.A. It is an emerging issue and India should enact a statute in line with the *Children's Online Privacy Protection Act, 2000* in U.S.A. In this respect, *Section 67B of the Information Technology Act, 2000* is not enough.

(15) In U.S.A., Health and Medical Privacy is protected by the *Health Insurance Portability and Accountability Act, 1996* upgraded by the *Health Information Technology for Clinical and Economic Health Act, 2009.* But, India is lacking such laws, passing of which is the urgent need of the hour herein. As such, the *Health and Family Welfare Department of the Union Government* has drafted a proposed legislation, called the *Health Data Privacy and Security Act.* Enactment of such a statute should be made in India as early as possible for the protection of Health and Medical Privacy.

(16) Both U.S.A. and U.K. have laws relating to protection of Privacy of Communication by enacting the laws on prevention of interception of Communication. But, India is lacking such laws and is still dependent on the age-old *Indian Telegraph Act, 1885.* Hence, time has come for India to enact a fresh law for prevention of interception of communication.

(17) India has tried to protect the Privacy of Matrimonial Proceedings and has incorporated the provisions of *In Camera Proceedings* in all the matrimonial statutes in India. But, U.S.A. and U.K. lack such legal provision, which should be incorporated therein.

(18) *Section 9 of the Hindu Marriage Act, 1955,* which provides for the protection of Restitution of Conjugal Rights, has become a serious impediment on the Right to Privacy of Women in the present social scenario. In the era of empowerment of women, it should not be correct to force women to face male domination in the name of Restitution of Conjugal Rights. They should enjoy their Freedom or Privacy regarding their marital life. In this sense, *T. Sareetha v. Venkata Subbaiah* case is more appropriate than the *Saroj Rani v. Sudarshan* case. Hence, Indian legislature should think over the matter for the protection of Right to Privacy of Women and should strike down *Section 9 of the Hindu Marriage Act, 1955.*

(19) In India, Right to Privacy of HIV/AIDS infected persons and Privacy of Medical Tests have been protected only by judicial interpretation. Such areas also need active legislative intervention.

(20) Right to Privacy of Motherhood is seriously endangered in India by the increase of female foeticide. Enactment of the *Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994* has not become enough to change the scenario. Hence, general awareness campaign should be organised at the grass-root level for the prevention of this heinous crime.

(21) Privacy versus Freedom of Press is a serious issue in India, for the mitigation of which the *Press Council of India* has enacted the *Norms of Journalistic Conduct, 2010.* Journalists should follow these norms in order to avoid violation of Privacy. But, those norms are not adequate enough for balancing the Right to Privacy and Freedom of Press, because these are only voluntary guidelines for the journalists. Therefore, active legislative and judicial interventions are also required in the said field.

(22) Sting Operation is an important method of criminal investigation in India, but without defining the four corners of Right to Privacy, there is every chance of violation of Right to Privacy by Sting Operation. Therefore, the legal procedure of Sting Operation should be defined by express statutory enactment.

(23) Narco-Analysis, Polygraph Test and Brain-Mapping are three important tests of crime detection, but these create serious impact on the Privacy of Physical Integrity of the human beings. Supreme Court of India has recently raised concern on the matter in the *Selvi v. State of Karnataka* case. Now the matter needs an express legislation on the subject to decide what matter would become a violation of Privacy and what not.

(24) Right to Privacy has recently been declared as a Fundamental Right under *Article 21 of the Indian Constitution* by the Supreme Court of India in the *Justice K.S. Puttaswamy v. Union of India* case. But the *Aadhaar-Privacy* matter is still pending before the Five-Judge Bench of the Supreme Court. In this respect, Suggestions may be provided that, *Aadhaar Card* should be introduced for the prevention of terrorism and other fraudulent activities, but it should not convert our society into a surveillance society. Government should take appropriate steps for prevention of disclosure of personal information to any person by the introduction of *Aadhaar Card System.* The *Aadhaar Act* should incorporate strict punishment for the violation of Right to Privacy of Individual persons for the application of *Aadhaar System.* Storing and processing of personal data in the *Aadhaar System* should be kept in the hands of the government and distribution of such activities to large scale private organisations should be avoided. Unauthorised use of those personal data should be prevented by law. Linking of *Aadhaar Number* should not be made compulsory, except the matters of emergent concern. Supreme Court of India should provide extensive guidelines in this respect.

Last but not the least, Right to Privacy of LGBT persons has been protected by the Supreme Court of India in the *Justice K. S. Puttaswamy v. Union of India* case. The matter is pending before a Five-Judge Bench of the Supreme Court in the *Suresh Kumar Koushal v. Naz Foundation* case. The decision of the Supreme Court is required to be provided in that case by upholding the decision of the *Naz Foundation v. Govt. of NCT of Delhi* case in the light of the judgment of the *Puttaswamy* case. Also the *Section 377 of the Indian Penal Code, 1860* is required to be struck down, so far it would violate the Right to Privacy of the LGBT persons. Hence, the Researcher can finally say that, Right to Privacy is an emerging issue in U.S.A., U.K. and India and as such, only a few aspects of it could be covered under

a limited scope of study. Yet, there are other dimensions of this right, which would come with the passage of time.