

PREFACE

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. 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.

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.

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 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.

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.

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. 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. 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.

Now I would like to take the opportunity to express my gratitude towards everyone for carrying out this extensive research work. With a deep sense of reverence and respect firstly, I would like to thank almighty God for his blessings to help me complete the Thesis.

At the very outset I would like to thank Dr. Rathin Bandopadhyay, Professor, Department of Law and Head, Department of Management, University of North Bengal, my Supervisor for this work, without whose constant zeal and enthusiasm this work would ever be complete. It was more than a pleasure to work under the able supervisions of a multi faceted personality like him. In fact words fall short to express my gratitude towards him; all that can be said is, he was the perfect guide every scholar would yearn for.

I would also take this opportunity to thank Prof. (Dr). Gangotri Chakraborty, Head, Department of Law, University of North Bengal and Late Prof. (Dr). Bishnu Prasad Dwivedi of Department of law who have given their valuable advice at the outset of this work. At this instance, I would like to thank Dr. Sujit Kumar Biswas and Dr. Narender Nagarwal, Assistant Professors of the Department of Law, University of North Bengal for their constant support and encouragement.

Thanks are also due to each and every teacher, Office Staff and Library Staff of the Department of Law, University of North Bengal. I would like to particularly thank Mr. Shantanu Chanda, Assistant Librarian, Mrs. Sati Dey and Mr. Amal Dhar of the Library, Department of Law, University of North Bengal, who have gone out of the way to help me.

This work took me to some of the best libraries in the country. Hence heartiest thanks are due to each and every Library Staff of Department of the Law, University of North Bengal, The Central Library, University of North Bengal, Calcutta University Law Library, The British Council Library, Kolkata, The

American Centre Library, Kolkata, The Indian Council of Social Science Research Library, Kolkata, The West Bengal National University of Juridical Sciences Library, Kolkata, The Asiatic Society Library, Kolkata, West Bengal State Library, Kolkata, State Human Rights Commission, Kolkata, Mahanirban Calcutta Research Group, Kolkata, The Indian Law Institute Library, New Delhi, The Indian Society for International Law Library, New Delhi, The National Human Rights Commission Library, New Delhi, The Indian Institute of Public Administration Library, New Delhi, The Central Library, Jawaharlal Nehru University, New Delhi; deserves special praise for cooperation and timely help.

This work would never be complete without the encouragement of my colleagues at Jogesh Chandra Chaudhuri Law College, Kolkata and Department of Law, Bankura University, Bankura as well as my present Ph.D. Co-Scholars deserve special thanks for necessary help and advice. Special thanks are also due to Prof. (Dr.) Manik Bhattacharya, Retired Principal of Jogesh Chandra Chaudhuri Law College, Kolkata, Prof. (Dr.) Debnarayan Bandyopadhyay, Vice-Chancellor, Bankura University, Bankura and Dr. Lokendra Malik, Advocate, Supreme Court of India, New Delhi, without whose constant support, guidance and encouragement this thesis would become incomplete.

The little knowledge I have today is all because of my father, Sri Tara Kinkar Chatterjee and my mother, Smt. Susmita Chatterjee. It was them who have always stood beside me like a strong pillar of support in all the oddities I have faced in the completion of this work. I express my profound thanks to numerous friends, students of present and former institutions for the help in different ways. I also express my deep sense of thanks to the learned authors whose works I have consulted and who have been enlisted in the bibliography.

Dated:

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